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ENVIRONMENTAL ASSESSMENT BOARD



ONTARIO HYDRO DEMAND/SUPPLY PLAN HEARINGS

VOLUME: 92

DATE: Thursday, December 12, 1991

BEFORE:

HON. MR. JUSTICE E. SAUNDERS Chairman


DR. G. CONNELL Member

MS. G. PATTERSON Member

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ENVIRONMENTAL ASSESSMENT BOARD
ONTARIO HYDRO DEMAND/SUPPLY PLAN HEARING

IN THE MATTER OF the Environmental Assessment Act,
R.S.O. 1980, c. 140, as amended, and Regulations
thereunder;

AND IN THE MATTER OF an undertaking by Ontario Hydro
consisting of a program in respect of activities
associated with meeting future electricity
requirements in Ontario.

Held on the 5th Floor, 2200
Yonge Street, Toronto, Ontario,
on Thursday, the 12th day of December,
1991, commencing at 10:00 a.m.

VOLUME 92

B E F O R E :

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MS. G. PATTERSON	Member

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1 ---Upon commencing at 10:00 a.m.

2 THE REGISTRAR: Please come to order.

3 This hearing is now in session. Be seated, please.

4 THE CHAIRMAN: Mr. Mattson.

5 MR. MATTSON: Good morning, Mr. Chairman,
6 Panel.

7 I believe in front of you you have - not
8 in front of you - there are a number of binders and
9 material that we will be referring to during the course
10 of the examination. We have tabbed them from A to O
11 and we have provided Hydro's panel with these binders
12 as well.

13 It's a lot of material, I realize. We
14 hope to get through it as quickly as possible. Some of
15 the material we won't be referring to and we have
16 included it, we have decided to cut the questions out
17 to save time, but we hope to have it entered into the
18 record, and the other material there is provided for
19 ease of reference, some transcript references that
20 might be referred to quicker if I just note the page.

21 The entire binder has been numbered. In
22 the top right-hand corner each tab has been numbered
23 from 1 through, again, that was done for ease of
24 reference, so we might go through the material fairly
25 quickly.

1 THE CHAIRMAN: The only evidence that's
2 taken in, as far as this hearing is concerned, is
3 evidence that is given by the panel itself either in
4 response to questions or in answers to interrogatories.

5 If there's material in these binders that
6 you intend to rely on as part of your case, then that
7 should be referred - I'm not saying you can't put them
8 in now and have them marked - but that they would have
9 to be referred to when you are putting in your own
10 case.

11 We wouldn't be looking at any of the
12 material you don't refer to, and we will only look at
13 material you do refer to, to the extent that we have to
14 understand the answers to the questions made by the
15 panel.

16 MR. MATTSON: Yes, I understand, Mr.
17 Chairman. In fact, I misspoke myself. They will be
18 referred to in chief, if we have the opportunity, but
19 we have left it in and cut the questions out for
20 cross-examination.

21 THE CHAIRMAN: All right.

22 MR. MATTSON: One more thing, Mr.
23 Chairman, is I believe you have been supplied with a
24 guideline to the cross-examination. It's a one pager,
25 it's informal, and it might just help know where we are

1 going.

2 Thank you.

3 THE CHAIRMAN: Thank you.

4 MR. MATTSON: Now, Mr. Chairman, should I
5 then read and have exhibit numbers given to each tab
6 and I'll read the short title and we can do away with
7 that necessity now.

8 THE CHAIRMAN: All right, do that.

9 MR. MATTSON: And the exhibit numbers
10 begin with...?

11 THE REGISTRAR: No. 416 is the next
12 exhibit number, Mr. Chairman.

13 THE CHAIRMAN: Thank you.

14 MR. MATTSON: Mr. Chairman, at tab A of
15 the material, 416, short title: "Materials on Ontario
16 Hydro's Provincial Water Rental Agreements."

17 THE CHAIRMAN: That will be No. 416; is
18 it?

19 THE REGISTRAR: That's 416, yes.

20 THE CHAIRMAN: Thank you.

21 ---EXHIBIT NO. 416: "Materials on Ontario Hydro's
22 Provincial Water Rental Agreements."

23 MR. MATTSON: And tab B, "Materials on
24 Ontario Hydro's Other Water Rental Agreements."

25 THE REGISTRAR: 417.

1 ---EXHIBIT NO. 417: "Materials on Ontario Hydro's
2 Other Water Rental Agreements."

3 MR. MATTSON: At tab C, "Materials on
4 Federal Government's Interests in Increased Water
5 Charges."

6 THE REGISTRAR: 418.

7 ---EXHIBIT NO. 418: "Materials on Federal Government's
8 Interests in Increased Water Charges."

9 MR. MATTSON: Tab D, "Materials on
10 Stations without Water Rental Agreements."

11 THE REGISTRAR: 419.

12 ---EXHIBIT NO. 419: "Materials on Stations without
13 Water Rental Agreements."

14 MR. MATTSON: Tab E, "Materials on
15 Potential Increases in Water Rentals."

16 THE REGISTRAR: 420.

17 ---EXHIBIT NO. 420: "Materials on Potential Increases
18 in Water Rentals."

19 MR. MATTSON: Tab F, "Materials on Water
20 Rentals for Future Hydraulic Developments."

21 THE REGISTRAR: 421.

22 ---EXHIBIT NO. 421: "Materials on Water Rentals for
23 Future Hydraulic Developments."

24 MR. MATTSON: Tab G, DSP Interrogatory
25 Response 2.2.15.

1 THE REGISTRAR: 422.

2 MR. MATTSON: Tab H.--

3 THE CHAIRMAN: Just a moment. Shouldn't
4 that one be just given a 367 number?

5 MS. MORRISON: It's an interrogatory.

6 THE REGISTRAR: Tab G, yes. .119.

7 THE CHAIRMAN: Thank you.

8 ---EXHIBIT NO. 367.119: Interrogatory No. 2.2.15.

9 MR. MATTSON: Thank you. Tab H,
10 "Materials on Competing Water Use Interests,
11 Navigation."

12 THE REGISTRAR: Tab H then will be No.
13 422.

14 ---EXHIBIT NO. 422: "Materials on Competing Water Use
15 Interests, Navigation."

16 MR. MATTSON: Tab I, "Materials on
17 Competing Water Use Interests, Aboriginal Concerns."

18 THE REGISTRAR: 413.

19 MS. PATTERSON: 23.

20 MR. MATTSON: 423?

21 THE REGISTRAR: Beg your pardon, 423.

22 ---EXHIBIT NO. 423: "Materials on Competing Water Use
23 Interests, Aboriginal Concerns."

24 MR. MATTSON: Thank you. Tab J,
25 "Materials on Competing Water Use Interest, Riparian

1 Concerns."

2 THE REGISTRAR: 424.

3 ---EXHIBIT NO. 424: "Materials on Competing Water Use
4 Interests, Aboriginal Concerns."

5 MR. MATTSON: Tab K, "Materials on
6 Competing Water Use Interests, NUGS."

7 THE REGISTRAR: 425.

8 ---EXHIBIT NO. 425: "Materials on Competing Water Use
9 Interests, NUGS."

10 MR. MATTSON: Tab L, "Materials on
11 Projected Decreases in Availability of Water."

12 THE REGISTRAR: 426.

13 ---EXHIBIT NO. 426: "Materials on Projected Decreases
14 in Availability of Water."

15 MR. MATTSON: Tab M, "Fisheries Branch
16 Review of the MNR Water Program Draft."

17 THE REGISTRAR: 427.

18 ---EXHIBIT NO. 427: "Fisheries Branch Review of the
19 MNR Water Program Draft."

20 MR. MATTSON: Tab N, "Materials on
21 Competing Water Use Interests, Tourism and Parklands."

22 THE REGISTRAR: 428.

23 ---EXHIBIT NO. 428: "Materials on Competing Water Use
24 Interests, Tourism and Parklands."

25 MR. MATTSON: And, finally, tab O,

1 "Materials on the Importance of Communities
2 Acceptance."

3 THE REGISTRAR: 429.

4 ---EXHIBIT NO. 429: "Materials on the Importance of
5 Communities Acceptance."

6 JUNE BASU ROY,
7 KENNETH SNELSON,
8 ERSKINE LEE FLOOK,
9 THOMAS EASTON WIGLE,
ALANNA MARY QUINN,
BRIAN JOHN McCORMICK,
REED CAMERON HARRIS; Resumed.

10 CROSS-EXAMINATION BY MR. MATTSON:

11 Q. If I could direct you then to Exhibit
12 416, that's at tab A on page 9. We provided a
13 transcript reference, and if you look to lines 14 to
14 24 --

15 THE CHAIRMAN: What page is the
16 transcript reference?

17 MR. MATTSON: It's page 9 of the exhibit
18 and the transcript page, 14567, Mr. Chairman.

19 THE CHAIRMAN: Thank you.

20 MR. MATTSON: Q. Mr. Wigle, in your
21 direct -- I would like to read from 14 down, the
22 question was:

23 Mr. Wigle, what will current rates
24 for water rentals be in the future?

25 And your response was:

1 Under the present agreement, the
2 rates escalate as a function of the CPI.
3 However, this agreement expires in 1994.
4 What will happen after that I really
5 don't know. There have been no
6 discussions with the province regarding a
7 new agreement. I can tell you, for
8 planning purposes beyond 1994, we assume
9 that the terms of the current agreement
10 are still valid.

11 Mr. Wigle, Hydro has water rental
12 agreements with the provincial government, but it also
13 has agreements with other parties as well; correct:

14 MR. WIGLE: A. That is correct.

15 Q. And who are those other parties?

16 A. There's the St. Lawrence Seaway
17 Authority, Parks Canada, and I guess indirectly the
18 Province of Quebec.

19 Q. And when in direct you said that you
20 assume the terms are still valid, were you speaking
21 only of the provincial agreement or about the others as
22 well?

23 A. The provincial agreement.

24 Q. And with respect to the other
25 agreements, would you like to comment on how Ontario

1 Hydro's plan for -- or look at these for planning
2 purposes?

3 A. Well, as we have stated in several
4 interrogatories, two of those agreements are under
5 negotiation for renewal and --

6 THE CHAIRMAN: Which two are those?

7 MR. WIGLE: St. Lawrence Seaway Authority
8 and Parks Canada.

9 THE CHAIRMAN: What's the third
10 agreement? I couldn't quite understand what you said.
11 Indirectly you said.

12 MR. WIGLE: With the Province of Quebec.

13 THE CHAIRMAN: You have an agreement with
14 the Province of Quebec.

15 MR. WIGLE: There's a federal statute
16 that indicates that we are to pay water rentals to the
17 Province of Quebec for the stations on the Ottawa
18 River, the half that is in the jurisdiction of that
19 province.

20 I did leave off one another, it's the
21 Niagara Parks Commission.

22 MR. MATTSON: Q. Thank you. And for
23 planning purposes, for the purpose of this hearing, are
24 you looking at the terms and conditions of those
25 agreements, are you assuming that those are valid for

1 the purposes of the Demand/Supply Plan or have you made
2 other planning assumptions?

3 MR. WIGLE: A. When I refer to planning
4 assumptions, I'm referring to the budgeting process for
5 the payment of these water rentals and not planning
6 insofar as new generation.

7 Most of the costs -- we pay a total of
8 107 million. I think 101 million of that goes to the
9 province, so we're not too worried about what the
10 others might come in at.

11 Q. All right. But then just in answer
12 to the question, you're assuming then the terms and
13 conditions of those agreements, whether they're under
14 renegotiation or not, the ones other than the provincial
15 government agreements, you're assuming that the terms
16 and conditions are valid for the purposes of planning?

17 A. That is a difficult question to
18 answer because those agreements have been under
19 negotiation for several years and we do have some
20 information, unfortunately we cannot give out at this
21 time because it might affect the negotiations, but we
22 do have some idea where we are going.

23 Q. Okay. I might be getting to that
24 when I get to the agreements themselves and I'll ask
25 you a question then.

1 One more question with respect to the
2 transcript reference. Again, the statement you've
3 given there in direct, were you referring to rates on
4 existing statements and future hydraulic developments
5 or just existing stations there?

6 A. Just existing stations.

7 Q. And do you have a different -- are
8 you assuming different terms with respect to future
9 hydraulic plans?

10 A. I'll have to defer that question to
11 one of the planners.

12 MR. SNELSON: A. Could you repeat that
13 question, Mr....

14 Q. Sure. For planning purposes beyond
15 '94, are you assuming that the terms of the current
16 agreement are valid for those future hydraulic
17 stations.

18 [10:16 a.m.]

19 A. The terms of the agreement with the
20 Province of Ontario or the other agreements?

21 Q. Just with the Province of Ontario for
22 now.

23 A. I believe Ms. Basu Roy would talk to
24 the specific assumptions that have been made with
25 respect to new hydraulic sites, and that generally they

1 talk about the continuation of the current agreement
2 terms, but there may be some provisions for deferring
3 hydraulic water rentals during the early years of a new
4 project's life.

5 Q. Thank you. Now you will find on page
6 2, tab A, the same exhibit.

7 MR. MATTSON: I won't, Mr. Chairman --
8 when I move to another exhibit, I will note it. But
9 for the purposes of getting through the material, if I
10 can just refer to the page until we switch to new
11 exhibit. It is actually page 1, you will find an
12 interrogatory response provided by Ontario Hydro to
13 Energy Probe at this year's Ontario Energy Board Hydro
14 rate hearing?

15 THE CHAIRMAN: Can we give that a 367
16 number?

17 MR. MATTSON: It's an interrogatory
18 response to another hearing, Mr. Chairman.

19 THE CHAIRMAN: Oh, not this hearing?

20 MR. MATTSON: No, Ontario Energy Board.

21 THE CHAIRMAN: Just cancel that remark.
22 I didn't notice that.

23 MR. MATTSON: Q. If you turn to page 2,
24 you'll note point 1, the provincial master agreement.
25 And you'll note that it describes the master agreement

1 between Ontario Hydro and the provincial government.
2 The agreement covers water rental payments for 44
3 hydraulic stations.

4 If you could turn to page 3 at subsection
5 I, the note that it explains, that under the master
6 agreement water rental charges are based on two
7 factors, and they are set out:

8 An energy rate applied to the net
9 energy generated by a station, and the
10 capacity rate applied to the station's
11 deemed capacity.

12 Now, Mr. Wigle, can you give us a rough
13 idea of the relative importance of these two payments?
14 For example, what percentage of Hydro's water rental
15 payments would be energy charge and what percentage
16 would be capacity charge of the 107 million total?

17 MR. WIGLE: A. The energy rate and the
18 capacity rate refer only to the master agreement with
19 the province, and that is approximately \$101 million in
20 1990. So, what portion of that is capacity, it's about
21 two-thirds.

22 Q. Thank you. And Mr. Wigle, in direct
23 evidence, and I can refer you to the transcript page if
24 you like. It's set out at page 8 of the exhibit, but
25 it's transcript 82, page 14566, lines 12 to 14.

1 A. 145?

2 Q. 66. It's at page 8 of the exhibit,
3 if it's easier, lines 12 to 14. You stated

4 "The payment to the province is on
5 the basis of the amount of energy
6 generated and the installed capacity at
7 each station."

8 And as noted in the exhibit at page 3, it
9 was to be paid on deemed capacity. I was wondering if
10 you could describe, is it in fact paid on deemed, or is
11 it paid on installed?

12 A. It is paid on deemed capacity.
13 Deemed capacity is the figure that was struck for the
14 capacity of the plant at the beginning of the
15 agreement, and in essence the deemed capacity is the
16 name plate capacity of the station. That is the
17 original installed capacity. So in my direct evidence
18 when I say installed capacity, in retrospect perhaps I
19 should have said the name plate capacity. but the
20 intention was the original capacity.

21 Q. Thank you. And if you could turn to
22 page 10 of the exhibit? The interrogatory response to
23 Energy Probe No. 2.2.2.

24 THE REGISTRAR: That will be .120.

25 ---EXHIBIT NO. 367.120: Interrogatory No. 2.2.2.

1 MR. MATTSON: Q. We have an excerpt
2 there, the next page is page 11 of the exhibit. This
3 is the July 4, 1985 master agreement, and I have an
4 excerpt there. You'll note that it's Schedule A, and
5 the stations are set out, and I note, Mr. Wigle, that
6 the installed capacity in 1985 equalled the deemed
7 capacity, correct? So at that time they were the same?

8 MR. WIGLE: A. That's what the table
9 says, yes.

10 Q. And there are a number of exceptions
11 there which we may speak about later, but they deal
12 with under 10 megawatts and the Ottawa stations.

13 THE CHAIRMAN: I'm sorry, I don't quite
14 see where you make it the installed capacity with the
15 deemed capacity on that table. How does that show?

16 MR. MATTSON: Mr. Chairman, on page 11 of
17 the exhibit.

18 THE CHAIRMAN: Yes.

19 MR. MATTSON: The installed capacity, for
20 example Abitibi Canyon is 233,825.

21 THE CHAIRMAN: Well, yes, but there is
22 some that don't have any deemed capacity, like for
23 instance Big Chute.

24 MR. MATTSON: That's correct. Mr.
25 Chairman...

1 Q. I believe, Mr. Wigle, there are two
2 exceptions to the rule there. Those deal with stations
3 under 10 megawatts and the stations on the Ottawa
4 River; correct?

5 MR. WIGLE: A. I believe that is
6 correct.

7 MR. MATTSON: And we'll be speaking about
8 those specific agreements later, Mr. Chairman.

9 THE CHAIRMAN: Well, then look at the
10 Otter Rapids, 205 installed capacity and 102 deemed
11 capacity.

12 MR. MATTSON: Yes, Mr. Chairman. I
13 believe that's on the Ottawa River.

14 THE CHAIRMAN: All right, but it's a
15 little too broad to say they are the same, isn't that
16 right?

17 MR. MATTSON: Yes. Mr. Chairman, we will
18 be getting to the stations on the Ottawa River and the
19 under 10 megawatts, but I believe except for those two
20 exceptions, all the others are the same, installed and
21 the deemed when the master agreement was signed in
22 1985.

23 Q. Is that correct, Mr. Wigle?

24 MR. WIGLE: A. That's correct.

25 Q. Now on page 5 of the exhibit, this is

1 again back to the OEB interrogatory, which we will be
2 referring to a number of times, this table has the
3 figures for 1990. And you'll note that the installed
4 capacity rarely coincides with the deemed capacity.
5 Again the first station which we referred to is the
6 Abitibi Canyon. It's 1990 installed capacity is 285
7 megawatts, which is 285,000 kilowatts. And it's deemed
8 capacity remains the same as it was at page 11, which
9 is 233,825 kilowatts. Can you explain, Mr. Wigle, why
10 the installed capacity has grown?

11 A. Due to our turbine upgrade program.
12 We are continuing improving the performance of various
13 units, and that was the concept of the deemed capacity,
14 to freeze the capacity of the plant at the beginning of
15 a program. It would be an administrative nightmare to
16 try and keep our payments in line with the improvements
17 to the units.

18 Q. All right. Then is it also true, Mr.
19 Wigle, that during the course of the master agreement,
20 a station's installed capacity increases over its
21 deemed capacity, but that hydro no longer pays any
22 capacity charge on that increase?

23 A. That is correct.

24 Q. Do you know the amount of savings to
25 Ontario Hydro that has resulted in since 1985?

1 A. No, I do not.

2 Q. For planning purposes, Mr. Wigle, are
3 you assuming that Hydro's capacity charges will
4 increase to reflect the new installed capacity in 1994?

5 A. I do not know. I think maybe that's
6 a safe assumption.

7 Q. You have worked that into your
8 planning for the DSP?

9 A. I'm sorry, would you repeat the
10 question?

11 Q. Sure. We saw earlier that the terms
12 of the 1985 agreement are valid for the purposes of
13 planning, you indicated, and I was wondering if you'd
14 taken into account that these deemed capacities that
15 you are paying on now will now reflect the increase
16 installed capacity in 1994?

17 A. Yes. I'll have to repeat the
18 assumption. When I mentioned planning, I used that as
19 budgeting, planning for budget in the future years, and
20 budgets in two or three, four, five years in the future
21 are not that accurate. I don't think we --

22 THE CHAIRMAN: Do you know what the
23 history has been? I mean how often are these
24 agreements negotiated?

25 MR. WIGLE: The master agreement, every

1 ten years.

2 THE CHAIRMAN: Do you know what's
3 happened in past years as a result of changes in what
4 you loosely call installed capacity over a period? Are
5 they brought up to date and levelled off each time?

6 MR. WIGLE: The current agreement is the
7 first agreement where we have had a capacity charge.
8 Previous agreements have only charged on the basis of
9 energy.

10 THE CHAIRMAN: So you have no history?

11 MR. WIGLE: This is a new feature. We
12 have no experience.

13 THE CHAIRMAN: You have no history.

14 MR. MATTSON: Q. Mr. Wigle, in 1985 it
15 was true that your water rents due to the master
16 agreement tripled, correct, from what they were prior
17 to 1985?

18 MR. WIGLE: A. That is correct.

19 Q. Thank you. If you'd look at page 12
20 of the exhibit, Mr. Wigle, and this is an excerpt from
21 figure 420 of the DSP report, and the only capacity
22 that's mentioned here is a peak capacity, and it again,
23 if you look at Abitibi Canyon, which is on page 14 of
24 the exhibit near the bottom, it has now risen to 294
25 megawatts.

1 [10:25 a.m.]

2 And I was wondering what the difference
3 between peaked capacity and installed capacity is.

4 A. I'm not sure, it might be the same
5 terminology. I really cannot answer it. Maybe one of
6 my...

7 MS. BASU ROY: A. The values that were
8 shown in figure 4-20 of Exhibit 3 was the 98 per cent
9 dependable peak capacity values.

10 Q. Would you agree, Ms. Basu Roy, that
11 that peak capacity, just one example being for Abitibi
12 Canyon, is greater than your 1990 installed capacity
13 for Abitibi Canyon, which was set out at page 5 of the
14 exhibit?

15 A. That's correct.

16 Q. So it's still increasing at this
17 time?

18 A. It's not increasing, it's just one is
19 installed capacity, the other is 98 per cent
20 dependable.

21 Q. And what is the difference?

22 THE CHAIRMAN: It appears to have gone
23 down in the period between Exhibit 3 and what's the
24 table shown on page 5.

25 MR. SNELSON: There are different

1 definitions of these terms. Exhibit 365, which is the
2 system planning report, 690 SP 1991 Power Resources
3 Report, Historical and Predicted, does include the
4 latest information on capacity that is being used for
5 planning purposes, and the maximum continuous rating
6 which is different again to 98 per cent dependable
7 capacity, maximum continuous rate is given as 285,000
8 kilowatts.

9 MR. MATTSON: Q. Thank you, Mr. Snelson.
10 If we turn again to page 3 of the exhibit, I believe
11 this is a question for you, Mr. Wigle. Subsection (i),
12 which we have already referred to, sets out how you
13 come to your provisional rate, which is the water
14 rental rate that you pay; correct?

15 MR. WIGLE: A. We pay on the provisional
16 rate until that rate is confirmed and then there's
17 another payment that makes up the difference.

18 Q. All right. And just very quickly,
19 because we will be doing a number of these calculations
20 for our examination in chief, is it correct that the
21 formula for adding the provisional rate would be to
22 take the energy rate and multiply that by the net
23 energy generated, and then you take the capacity rate
24 and multiply that by the deemed capacity, add those two
25 figures, and that would be the water rental rate for

1 that station?

2 A. I believe that is correct.

3 Q. Thank you. Now, on pages 8 and 9 of
4 the exhibit, which is again a transcript reference, I'm
5 reading from the very --

6 THE CHAIRMAN: Just before we leave that.
7 I'm not quite sure I was clear what you mean by the
8 provisional rate and some subsequent rate. How does
9 that work?

10 MR. WIGLE: The rates change each year
11 according to the CPI, but we never know the CPI until
12 the year is over. So we pay -- for instance in 1990
13 the rate we are using is actually the confirmed rate.
14 for -- sorry, for 1991 the rates that we are paying are
15 really the confirmed rate for 1990. When the CPI for
16 1991 is received in February of next year, then we will
17 make an adjustment.

18 MR. MATTSON: Q. Mr. Wigle, starting at
19 line 25 of this excerpt from the transcript -- or 23,
20 the question was:

21 Did Ontario Hydro have any say in the
22 establishment of these rates?"

23 The answer:

24 Not really. During the negotiations
25 for the 1985 agreement, the province

1 essentially told Hydro how much they
2 wanted, the remainder of the negotiations
3 simply determined how to arrive at that
4 figure.

5 And the question:

6 What was Ontario Hydro's approach to
7 these negotiations with the province?

8 And the answer:

9 Hydro goes into negotiations with any
10 government agencies with the intent of
11 using common business practices; that is,
12 getting the best deal for the Hydro
13 customers.

14 Now, there has already been some
15 discussion Mr. Wigle during cross-examination which
16 we'll leave out that you do not know, I believe, the
17 basis on which Ontario sets its water rental rates;
18 correct?

19 MR. WIGLE: A. No, that is correct, I do
20 not know.

21 Q. But I would like to ask you about the
22 remainder of the negotiations that you've discussed
23 when you say it was determined how to arrive at the
24 amount the government wanted. In the remainder of the
25 negotiations, Mr. Wigle, what was Ontario Hydro's role?

1 A. I was really not part of the
2 negotiations, so I cannot answer that except in the
3 very general term that is alluded to here. The
4 province indicated how much money they wanted and it
5 was a brainstorming session as to how to arrive at that
6 figure.

7 Q. When you say Hydro arrived, would it
8 be fair to assume that Hydro participated in
9 influencing the apportionment of the energy and
10 capacity charges at given stations?

11 A. I do not know.

12 Q. Would you know, Mr. Wigle, if Ontario
13 Hydro had any influence in trying to have certain
14 stations exempted from charges, for example?

15 A. I'm afraid I don't know factually,
16 it's only hearsay of what I've been told over the
17 years.

18 Q. Can you just give us a general idea
19 of what you've heard?

20 A. No, I'd prefer not to.

21 Q. Does anybody else on the panel -- can
22 anybody else on the panel answer that question?

23 MR. SNELSON: A. I don't believe so.

24 Q. Well, let me just go on then for a
25 moment. Mr. Wigle, it is true though that the fact

1 that the government sets these rates, it doesn't stop
2 Ontario Hydro from lobbying government for lower rates;
3 does it?

4 MR. WIGLE: A. I suppose not.

5 Q. If you turn to page 5 of the exhibit,
6 and this is Table 1 from the Ontario Energy Board
7 exhibit that Ontario Hydro provided us with at that
8 time.

9 If you look at the second column in,
10 you'll find nine examples on page 5 and six examples on
11 page 6 of where the deemed capacity is zero.

12 Do you see that, Mr. Wigle?

13 MR. WIGLE: A. Yes.

14 Q. Well, if you turn to page 16 of the
15 exhibit, I can have this interrogatory response
16 entered, it is an interrogatory from Energy Probe, ID
17 6.2.209.

18 THE REGISTRAR: That will be .121.

19 ---EXHIBIT NO. 367.121: Interrogatory No. 6.2.209.

20 THE CHAIRMAN: Thank you,

21 MR. MATTSON: Q. And in your response
22 you indicate that:

23 The Master Agreement of July 4th, 1985
24 exempts Ontario from capacity levy for
25 those stations where the capacity is less

1 than 10 megawatts, the 15 hydroelectric
2 stations in question.

3 And, Mr. Wigle, do you know why Ontario
4 Hydro has gotten this break on water rentals from the
5 government for these stations?

6 MR. WIGLE: A. I believe it was because
7 these small stations were -- it was foreseen that they
8 were going to be rehabilitated and not having a
9 capacity charge would help the economics in that
10 exercise.

11 Q. These 15 stations haven't been
12 rehabilitated yet; have they, Mr. Wigle?

13 A. I don't know, I haven't kept track.

14 Q. All right. If you would turn back to
15 page 2 of the exhibit again at the OEB interrogatory
16 response, you'll note at the bottom of the page
17 subsection (h) it states:

18 With regard to renewal, the Minister
19 of Energy has advised Ontario Hydro that
20 hydraulic generating stations producing
21 10 megawatts or less will not be exempted
22 from the capacity levy component of the
23 water rental upon renewal of the Master
24 Agreement, 1994. Ontario Hydro has
25 replied with objections to this

1 position.

2 Now, Mr. Wigle, can you indicate what
3 Ontario Hydro's objections are or have you already done
4 so with respect to rehabilitation? Is that essentially
5 the nature of your objections?

6 A. I'm sorry, what is the question
7 again?

8 Q. Can you indicate what the nature of
9 Ontario Hydro's objections are to the exemption no
10 longer being renewed in 1994?

11 A. I think it's one of economics. As I
12 mentioned, some of these stations are due for
13 rehabilitation to make them economic, and adding a
14 capacity charge just makes the station that much less
15 economic.

16 Q. Did you express these objections
17 formally to government or how was this done?

18 A. I think we did. I'm not absolutely
19 sure.

20 THE CHAIRMAN: Well, you mean, these
21 particular objections. They say in their interrogatory
22 they did object.

23 MR. MATTSON: Yes, Mr. Chairman.

24 Q. Mr. Wigle, the reason I ask some of
25 these questions, I can just give you an indication,

1 that the information that I've had so far from direct
2 is that there haven't been any negotiations with
3 respect to the '94 agreement which is why the
4 assumption of the terms and conditions of the '85 are
5 valid for planning purposes.

6 My question is: Have you taken into
7 account that the exemption will no longer be around in
8 '94 for those stations and have you thereby
9 incorporated it in, or does it show up at all in the
10 Demand/Supply Plan hearing planning?

11 MR. WIGLE: A. I think the amount of
12 dollars we are talking about here is quite small in the
13 scheme of things. The 15 stations or so that are
14 exempt at the moment I think represent about 42, 44
15 megawatts, and that is about half a million dollars.
16 So that is less than a 1/2 per cent of the current
17 payment.

18 Q. Mr. Wigle, the figures we have are a
19 little different. We have 70 megawatts, but I think
20 the more important question is: Why did Ontario Hydro
21 bother to object in the first place?

22 A. Well, in conducting our business we
23 want to, as I've indicated in the direct evidence, want
24 to have the best deal for our customers.

25 Q. So it's fair to say then that these

1 are just common business practices of Ontario Hydro
2 then to get the lowest rate possible?

3 A. Yes.

4 MR. FLOOK: A. And I can add that
5 perhaps it ties in with the MNR policy on small hydro,
6 which did provide an exemption at that time.

7 And then you asked a question if Hydro
8 had written concerning those things, and in your
9 material under tab F, page 10, you have a letter copied
10 from Ontario Hydro to Ministry of Energy and Natural
11 Resources which Ontario Hydro is writing expressing the
12 concern of application of charges to all small hydro,
13 private or anybody, because it would then be a negative
14 factor in encouraging small hydro development in
15 Ontario.

16 Q. Thank you, Mr. Flook. We will be
17 getting to that as well, but back to the question,
18 another question, Mr. Wigle. Are you aware if private
19 power producers in the province have to pay capacity
20 charges for stations under 10 megawatts other than the
21 recently announced policy of the government of a
22 10-year water holiday?

23 MR. WIGLE: A. No, I'm not aware.

24 Q. If you turn Mr. Wigle, to page 17 of
25 the exhibit, you find an excerpt from Exhibit 4, the

1 Demand/Supply Plan environmental analysis.

2 [10:40 a.m.]

3 At the bottom of the page, it reads:

4 Recent regulatory initiatives suggest
5 that large water users like Ontario Hydro
6 could have to pay more for the water they
7 use.

8 Then if you turn to the next page, which
9 is an interrogatory response, Ontario Hydro to Energy
10 Probe, No. 6.2.3.

11 THE REGISTRAR: Which is .122.

12 ---EXHIBIT NO. 367.122: Interrogatory No. 6.2.3.

13 MR. MATTSON: Q. The question is
14 basically what you were referring to in that
15 demand/supply plan environmental analysis, and you
16 answered:

17 The reference statement on water use
18 charges was based on independent
19 initiatives being considered by the
20 Ministry of Natural Resources and the
21 International Joint Commission. It is
22 Ontario Hydro's understanding that MNR
23 has been examining the possibility of
24 increasing water usage rates as a means
25 of generating additional revenue. Rates

1 are currently being examined on an annual
2 basis.

3 First of all, Mr. Wigle, can you tell us
4 more about the MNR and IJC initiatives?

5 MR. WIGLE: A. With regard to the
6 Ministry of Natural Resources, I'm aware that they had
7 a workshop on the pricing of water, and I believe there
8 was some excerpt in your material here, I forget the
9 date in 1989, with regard to federal initiatives. At
10 the moment I cannot recall exactly. Perhaps it was an
11 International Joint Commission's Diversions and
12 Consumptive Uses Study Board.

13 Q. Mr. Wigle, it states in the
14 interrogatory response that rates are being examined on
15 an annual basis. Who is examining them and what
16 exactly are they examining?

17 A. I think that is referring to the
18 annual escalation from the CPI ratio. Perhaps the
19 wording in the interrogatory is not the best.

20 MR. SNELSON: A. I don't think you
21 should assume that this interrogatory is only talking
22 about hydroelectric power. This is also talking, I
23 believe, about other uses of water.

24 Q. Yes, Mr. Snelson, actually, it's
25 provided at page 19, and I'll introduce it now. It's

1 an interrogatory from Energy Probe, 6.2.214.

2 THE REGISTRAR: .123.

3 ---EXHIBIT NO. 367.123: Interrogatory No. 6.2.214.

4 MR. MATTSON: Q. I believe we asked that
5 question, and your response:

6 Yes, references to both water charges
7 for both thermal and hydroelectric
8 stations, the initiative was the
9 consideration of increased water usage
10 charges.

11 So, Mr. Snelson, does that make it clear
12 that certainly these initiatives were with respect to
13 hydroelectric power, correct?

14 MR. SNELSON: A. This interrogatory is
15 with respect to all uses of water, as I understand it.

16 Q. But it's clear that these two
17 initiatives, the Ministry of Natural Resources and the
18 IJC, would apply to hydroelectric, as well as it would
19 apply to thermal, et cetera?

20 A. Mr. Wigle can talk better to how it
21 applies to hydroelectric.

22 Q. Thank you.

23 Now, Mr. Wigle, in your direct evidence,
24 and begins at page 9 of the exhibit, near the bottom of
25 the page lines 18 to 21, again you state:

1 There have been no discussions with
2 the province regarding a new agreement.

3 And just to be fair, I'd just like to ask
4 you to make the distinction between what we've seen as
5 what seems to be some discussions on an annual basis,
6 and also with respect to energy or capacity rates for
7 stations under 10 megawatts. I'd just like to know the
8 distinction between those discussions and what you'd be
9 speaking to here in direct.

10 MR. WIGLE: A. With regard to the annual
11 discussions, I don't believe there have been annual
12 discussions on that.

13 With regard to -- sorry, what was the
14 second point?

15 Q. The exemption for 10 megawatts and
16 under.

17 A. Well, as I mentioned, the exemption
18 for the 10 megawatts, in my quick calculations,
19 represents about a half a million dollars, and when
20 you're planning a budget for \$107 million escalating
21 into the future for five years, it is not...

22 THE CHAIRMAN: No, no, I don't think
23 that's the question he asked you. He asked you about
24 discussions, isn't that right?

25 MR. MATTSON: That's right.

1 THE CHAIRMAN: Answer the question you're
2 asked.

3 MR. WIGLE: I'm sorry, could you repeat
4 the question?

5 MR. MATTSON: Q. Just the distinction
6 between the discussions that you're having and the fact
7 that in the direct you indicated there have been no
8 discussions with the province regarding a new
9 agreement. Are you making a distinction, or have there
10 in fact been some discussions?

11 MR. WIGLE: A. My reference in my direct
12 is referring to the overall agreement in general sense.

13 Q. Again, Mr. Wigle, if I can just
14 continue, I think there are some other examples maybe
15 we can get to that might clear this up.

16 I think we'll leave this issue for now
17 and come back to it possibly.

18 First of all, Mr. Wigle, for planning
19 purposes, wouldn't it be a good idea to be having these
20 discussions with the government, trying to find out
21 what might take place with respect to water rental
22 rates in '94?

23 A. It is my understanding that the
24 protocol is for the government to start, to take the
25 first step.

1 Q. But you don't deny that Ontario Hydro
2 is lobbying right now for what those water rental rates
3 should be, correct?

4 A. I'm afraid I don't know what you are
5 referring to when you say lobbying right now.

6 Q. There may be more examples we'll get
7 to. But for example, the objections you filed with
8 respect to the loss of the exemption in 1994 that the
9 government has told you you will be losing at that
10 time.

11 A. Yes, the government wrote us a letter
12 saying that stations under 10 megawatts would not be
13 exempt in the future, and as I said, I believe we wrote
14 a letter objecting, stating that this was perhaps
15 against their policy of encouraging small hydro.

16 Q. Mr. Wigle, if water rents are imposed
17 upon you by government, as you indicate they take the
18 first step, from the evidence we've already heard in
19 1985 they tripled.

20 Given the political, the current
21 political climate in the province's need for revenue
22 requirements, wouldn't it be a good idea to at least
23 reflect an increase in water charges somewhere for
24 planning purposes in the Demand/Supply Plan hearing?

25 A. I don't think I can answer that, if

1 you're referring to the Demand/Supply Plan. I'll have
2 to defer that...

3 MR. SNELSON: A. I've got the general
4 idea of the question. Can you repeat it, just so I've
5 got the specifics correct?

6 Q. Sure, Mr. Snelson. My question is
7 just, given that the province sets these, as you
8 stated, takes the first step and sets these water
9 rental rates, and given the province's current revenue
10 requirements, don't you think that for planning
11 purposes it would be wise to forecast some increase in
12 water rental rates at the expiry of the 1985 agreement
13 in 1984?

14 A. As I heard the question before, it
15 was with respect to the long-term Demand/Supply Plan.
16 Is that still part of your question?

17 Q. Just with respect to planning purpose
18 generally. I mean we're talking existing stations
19 right now, I believe, correct?

20 A. Well, this is a hearing, I believe,
21 about the Demand/Supply Plan, and I can answer you in
22 that regard.

23 Q. That's right.

24 A. Essentially, water rentals for
25 existing generating stations are a very small

1 consideration in the long-term Demand/Supply Plan.

2 Most of the existing stations are expected to continue
3 to operate no matter what mix of demand and supply
4 options we pursue in the future.

5 So any costs in this regard are common to
6 all plans. And water rental itself is not a very large
7 part of Ontario Hydro's revenue requirement. You're
8 talking about \$100 million in total out of the total
9 revenue requirement in the order of \$6 billion. So
10 you're talking about an uncertainty in a cost that is
11 about 1/60 of our total revenue requirement.

12 Sure there are uncertainties associated
13 with this cost, as there are with many others, but it
14 was not an important factor, the water rentals for
15 existing stations in the long-term Demand/Supply
16 Planning process.

17 Q. My question, Mr. Snelson was, they
18 were tripled in 1985, correct?

19 A. Mr. Wigle said that, and that's my
20 understanding, too.

21 Q. I'm just asking why you wouldn't plan
22 for future increases in '94. And if you're saying it
23 is because that they are so minuscule -- is that the
24 answer, that they just don't make a difference?

25 A. No, my answer is that with regard to

1 the long-term Demand/Supply Plan and the selection of
2 options for future, then the water rentals for existing
3 stations are common and do not make a large difference
4 in the long-term plan, in the selection of options.
5 But it is a cost that has uncertainty associated with
6 it as to all others.

7 THE CHAIRMAN: But when you're looking at
8 the economics for planning purposes of hydraulic, do
9 water rentals, is it a factor in that?

10 MR. SNELSON: Yes, it is, and the water
11 rentals for new hydraulic plant are a factor, and we
12 have addressed uncertainties with respect to that. I
13 was answering specifically with regard to existing
14 plants.

15 THE CHAIRMAN: I think I understand Mr.
16 Mattson's question as well. Given that it is a factor,
17 wouldn't it be prudent planning to include something
18 more than just simply that everything will continue as
19 it is after 1994, given the circumstances that he lay
20 as a foundation of his question? I guess that's his
21 question.

22 MR. SNELSON: With respect to future
23 plant, then there are sensitivities that are done from
24 time to time with respect to how the economics of the
25 future hydroelectric plants would be affected by such

1 factors as being relieved of water rentals for some
2 portion of the early years of the plant, or having
3 water rentals increased beyond what is currently
4 forecast, based on the extension of the current
5 agreement, with continued escalation of the consumer
6 price index.

7 MR. MATTSON: Q. If I could just
8 continue on, I think I will be addressing some of your
9 statements in the specific exhibit at some point.

10 But, Mr. Wigle, back to page 21 of the
11 exhibit. It's another transcript reference. This is
12 in response to cross-examination by Ms. Kleer. The
13 bottom of the page there at sentence end at line 21:

14 We have no concrete information that
15 things are going to change, and in
16 budgeting you don't have any concrete
17 evidence that things are going to change.
18 The best projection for the future is
19 what is happening right now.

20 I'd like to ask you, Mr. Wigle, is this
21 typical of the way Ontario Hydro forecasts its fuel
22 costs?

23 MR. WIGLE: A. I cannot answer that
24 question. My reference in the transcript here was my
25 view of forecasting any unknown. If you don't have

1 much information in the future, the best thing is to
2 continue on with the present.

3 Q. Well, I would suggest that if you
4 look at page 23A and 23B of the exhibit, which is an
5 excerpt from "Ontario Hydro Energy Price Trends Report,
6 Annual Review of 1990," on the second page you'll see
7 that you forecast oil and gas, and you quote, "most
8 likely scenario," "most likely scenario," and then
9 again, "most likely scenario, but in the sectors."

10 Why would you not use the most likely
11 scenario with respect to water rental rates, as opposed
12 to what you have concrete evidence of today for water
13 rental rates?

14 A. I don't believe we know what the most
15 likely scenario will be.

16 Q. Is it true, Mr. Wigle, that if
17 Ontario Hydro forecast increases in future water rental
18 rates as the most likely scenario, that this would
19 jeopardize your bargaining position in negotiations
20 with government over the 1994 increases?

21 A. I'm sorry, I don't understand the
22 question.

23 Q. If Ontario Hydro forecast "the most
24 likely scenario with respect to water rental rates,"
25 would this somehow jeopardize your bargaining position

1 with the government in 1994?

2 [10:58 a.m.]

3 A. Well, I don't believe we know what
4 the most likely - using your phrase - the most likely
5 rates will be. That's something the government
6 decides.

7 Q. Yes. Well, I'm just using your
8 words, not my words, with respect to oil and gas most
9 likely scenario.

10 A. I did not write the words with regard
11 to oil. I'm not familiar with that document.

12 With regard to my comments on the bottom
13 of page 21, you go to page 22, it says in line 5, 6, 7,
14 that I was really speaking from the operational aspects
15 of budgeting for the payment of water rentals.

16 Q. Yes. And, Mr. Snelson, you're the
17 planner on the panel, why would you plan any
18 differently forecasting water rental rates than you
19 would for oil and gas?

20 MR. SNELSON: A. The distinct difference
21 is that oil and gas rates are set by energy
22 marketplaces and one is forecasting what is happening
23 in a marketplace. As we've indicated, water rentals is
24 more an administrative process that is determined by
25 government.

1 Q. So would you say it's easier to
2 predict the most likely scenario from the marketplace
3 than from government, or are you saying it's easier to
4 predict the most likely scenario from government as
5 opposed to the marketplace?

6 A. I couldn't comment on that. I'm just
7 saying they are very different situations, that's all.

8 Q. And Ontario Hydro won't then treat
9 water rental rates because they are set by government
10 the same way it treats oil and gas forecasts?

11 A. Well, there is a forecast that water
12 rental rates will rise at the consumer price index
13 which is a forecast of continuing water rental rates of
14 equivalent value.

15 Q. And do you believe that that's a fair
16 assumption, for the purposes of planning, that they
17 will remain the same as set out in the 1985 agreement?

18 A. I can't add to Mr. Wigle's comments
19 in that regard.

20 Q. Is it true, Mr. Snelson, that if
21 Ontario Hydro forecast water rental rates in this
22 process, that it would somehow prejudice their
23 bargaining position with the government in 1994?

24 A. I don't know that.

25 Q. Given Mr. Wigle's comment that the

1 government takes the first step in negotiations, are we
2 waiting for that first step to be taken then before we
3 are going to have any indication of where these water
4 rental rates may be in 1994?

5 A. I can't add to Mr. Wigle's comments.
6 I'm not familiar with the process of negotiating water
7 rentals.

8 Q. Mr. Wigle, if you could turn to page
9 24 of the exhibit, you have already mentioned it. It
10 is a Water Conservation Workshop June 26-27th, 1989 and
11 it's conference notes. Are you aware of this workshop,
12 Mr. Wigle?

13 MR. WIGLE: A. Yes, I am.

14 Q. And at page 27 you'll note it sets
15 out at the top of the page a discussion of sector
16 impacts of alternative charging methods, and one of the
17 participants is Ontario Hydro, Ray Effer; do you see
18 that?

19 A. Yes, I do.

20 Q. And do you know who Mr. Effer is?

21 A. Yes, I do.

22 Q. Is it true that he's the manager of
23 environmental studies and manager of Ontario Hydro?

24 A. He just retired.

25 Q. All right. If you could look to page

1 45 of the exhibit you'll see at the bottom of the page
2 Mr. Effer is reported as submitting that and I'm
3 quoting:

4 "Since Hydro is by far the largest
5 user and the only one that pays, it may
6 be wise to review these existing charges
7 before considering further ones."

8 My first question, Mr. Wigle: Is it true
9 that Ontario Hydro is the only user that pays water
10 rental rates in the province?

11 A. Are you referring to hydroelectric
12 production?

13 Q. Yes, just as the statement is about
14 water use charge and it states:

15 "Since Hydro is by far the largest
16 user and the only one that pays..."

17 A. As I mentioned earlier, I'm not up to
18 date on what the non-utility generators are -- whether
19 they are paying or not paying at the moment. Great
20 Lakes Power, I'm not sure exactly what they do either.

21 Q. But your belief is that they do pay;
22 is that not correct, that the non-utility generators in
23 the province pay water rentals rates; correct?

24 A. I have said I'm not sure at the
25 moment.

1 Q. Is anybody on the panel aware of
2 that?

3 MS. QUINN: A. (nodding negatively)

4 MR. SNELSON: A. (nodding negatively)

5 Q. Mr. Effer suggests that a review of
6 existing charges such as the ones -- Mr. Effer suggests
7 that a review of existing charges take place. To the
8 panel's knowledge, has such a review taken place?

9 MR. WIGLE: A. I am not aware of any.

10 THE CHAIRMAN: It doesn't say who
11 prepared these notes. Do you know who prepared them?
12 They are not verbatim statements by Mr. Effer, they are
13 somebody's notes of what took place at the conference?

14 MR. MATTSON: That's correct, Mr.
15 Chairman, they are prepared by MNR. The conference
16 notes is the title, it's the Ministry of Natural
17 Resources.

18 THE CHAIRMAN: Thank you.

19 MR. MATTSON: Q. Mr. Wigle, we have
20 talked a little bit about what I call lobbying for
21 lower rates. To your knowledge, is Ontario Hydro in
22 fact resisting paying increased charges other than the
23 CPI inflation index?

24 MR. WIGLE: A. As has been stated this
25 morning with regard to stations under 10 megawatts, I

1 believe - and I cannot recall precisely whether we
2 wrote the letter - I think we wrote a letter objecting
3 to the inclusion of those stations in the future.

4 Q. Let me just continue on. If you
5 could turn to page 50 of the exhibit.

6 THE REGISTRAR: Which one?

7 MR. MATTSON: Page 50, it's an
8 interrogatory from Ron Hunter, ID No. 2.35.7.

9 THE REGISTRAR: That is .124.

10 ---EXHIBIT NO. 367.124: Interrogatory No. 2.35.7.

11 MR. MATTSON: Q. If you turn to the
12 response, page 51 of the exhibit, halfway down the
13 page, it states that -- or Hydro states that:

14 "For Ear Falls GS...", I'm looking
15 under Ear Falls GS, frequency of spills, and for 1990,
16 "...236 days Ontario Hydro spilled water
17 at that station."

18 Do you see that, Mr. Wigle?

19 MR. WIGLE: A. Yes, I do.

20 Q. Does Ontario Hydro pay for this
21 spilled water through water rents or other charges?

22 A. No, we do not.

23 Q. Could you turn to page 53 of the
24 exhibit, interrogatory from Energy Probe ID 6.2.23.

25 THE REGISTRAR: 239 or 238?

1 MR. MATTSON: 239, page 53.

2 THE REGISTRAR: 53, thank you. That is
3 .125.

4 ---EXHIBIT NO. 367:125: Interrogatory No. 6.2.23.

5 MR. MATTSON: Q. And in response, Mr.
6 Wigle, it states that:

7 "It may be economic to install more
8 generating capacity at Ear Falls."

9 Correct?

10 MR. WIGLE: A. That's what it says.

11 Q. And without getting into the merits
12 of the costs of extending Ear Falls, can you confirm
13 that an extension would be that the available water
14 would more often be used to produce electricity rather
15 than spilling over the dam.

16 A. I presume that would be the case.

17 Q. And in short this would mean less
18 water is wasted.

19 A. Yes.

20 Q. Now, does a water rental rate that is
21 based on deemed capacity as we have discussed of the
22 station and net energy generated, give Hydro any
23 financial incentive not to waste water at existing
24 stations or future stations.

25 A. We would not waste water to get out

1 of paying water rentals.

2 Q. No, but my question is more does the
3 way the rental rates are set up now give you any
4 financial incentive not to waste water.

5 A. That's a different question to
6 answer. If we waste water we don't pay water rentals.
7 You're saying that does the present rate structure
8 encourage us to waste water, and I would say no.

9 Q. No I'm not saying that, I'm saying
10 does it give you any financial incentive not to waste
11 water.

12 A. I'm sorry, I am confused, I have
13 reinterpreted the question and apparently we are not
14 communicating.

15 Q. Okay let me just put a suggestion.
16 Would a charge per cubic metre of water passing through
17 turbines and over the dam provide an incentive to take
18 fuller advantage of a river.

19 A. Yes.

20 Q. I believe that that's a formula used
21 at one of your stations presently; correct? Another
22 water rental agreement.

23 A. I am sorry, I don't understand.

24 Q. We will get to the station later but
25 you do pay at one of your stations a charge per cubic

1 metre of water passing through the turbines or over the
2 dam; correct, that is a way.

3 A. We pay for the energy produced at a
4 station.

5 THE CHAIRMAN: Perhaps you can could tell
6 him what station it is and maybe we could get that put
7 out of the way at this point.

8 MR. MATTSON: I believe, Mr. Chairman, we
9 will get to it. But I believe it is the Decew stations
10 with St. Lawrence Seaway agreement.

11 THE CHAIRMAN: We are talking about the
12 are Ontario agreement.

13 MR. MATTSON: Q. That's why I say other
14 water rental agreements. They do pay based upon that
15 formula?

16 MR. WIGLE: A. Yes, that is correct.
17 It's per unit volume of water.

18 Q. Now, I would like to move onto the
19 Niagara river station. That is set out at page 3 of
20 the exhibit.

21 Now leaving the provincial master
22 agreement. And again, Mr. Wigle, this is from the
23 Ontario Energy Board response to Energy Probe
24 interrogatory. If you look at point 2, Niagara water
25 rentals agreement, you will see that subsection A

1 explains that the tri-partied agreement between the
2 Niagara Parks Commission and Ontario government,
3 Ontario Hydro set the water rental rate for Niagara
4 stations; correct?

5 Do you see that?

6 A. That is correct.

7 Q. If you look to subsection E, it notes
8 that the agreement expired on January 1st, 1983. A
9 draft agreement was drawn up in 1986 but it has never
10 been signed or approved. Water rentals are paid
11 according to the working arrangement imposed by the
12 province. Now, Mr. Wigle, the agreement has been
13 expired for nine years, why hasn't a new agreement been
14 signed on that station?

15 A. As I understand it, the province and
16 the Niagara Parks Commission have not been able to come
17 to an agreement.

18 Q. Do you know what Ontario Hydro's
19 position has been in those negotiations?

20 A. Ontario Hydro is really neutral. We
21 have really no vested interest in which way the
22 agreement is finally struck.

23 The agreement is basically a portion of
24 the water rentals on those plants goes to the Parks
25 Commission and the balance of the water rentals on

1 those plants goes to the province. So the essence of
2 this agreement is how much of the total water rentals
3 is siphoned off to the Niagara Parks Commission
4 directly as opposed to the government so that is
5 between the Niagara Parks Commission and the provincial
6 government.

7 Q. If you look to page 55 of the
8 exhibit, actually page 54 is the title page and it is
9 an Ontario Hydro document, "Niagara River Hydroelectric
10 Development, Environmental Assessment, March 1991."

11 On page 55 at the bottom of the
12 right-hand column, second sentence in, it states.

13 By agreement between Ontario Hydro
14 and the New York Power Authority, the
15 interchange agreement, the Robert Moses
16 Power Plant frequently withdraws water
17 for power generation in excess its
18 allotment. Compensation to Ontario for
19 the extra water diverted.

20 And Mr. Wigle, can you clarify how this
21 agreement works?

22 A. This is an agreement between the two
23 power entities, New York Power Authority and Ontario
24 Hydro. The concept is to make the best use of the
25 resources in the Niagara River. Because Ontario Hydro

1 has some old and less efficient units than the New York
2 Power Authority does, their plant is much newer, it is
3 often advantageous to rent their units and use Canadian
4 water in their plant. We get back what we could have
5 produced plus half the improvement. The New York Power
6 Authority gets to keep as an incentive, half of the
7 improvement.

8 Q. So the payment is made to Ontario
9 Hydro from New York Power Authority in terms of power
10 that you could have produced.

11 A. That is correct, plus half the
12 improvement that is derived by using the water in more
13 efficient units.

14 Q. Well, Mr. Wigle, if Ontario Hydro's
15 water rents are based in part on energy generated,
16 would Ontario Hydro have paid the provincial government
17 for water that the New York Power Authority uses?

18 A. I believe that is component in the
19 Niagara Parks -- the new agreement. We have not paid
20 this because the agreement has not been executed.

21 Q. Would you agree, Mr. Wigle, that if
22 Ontario Hydro hasn't paid for the water and that they
23 are in fact charging New York Power for the water, then
24 in some respects the province is missing out on some
25 water rental rate here.

1 A. We have been accruing internally in
2 our accounting system the payments that would be paid
3 for this feature if the agreement was signed and the
4 province and Niagara Parks Commission come to an
5 agreement we will be ready to transfer the money.

6 Q. You said that Ontario Hydro doesn't
7 have a vested interest in this agreement earlier, in
8 fact it does, does it not?

9 A. If you are referring to that one
10 feature, to my knowledge it has already been confirmed
11 and there are no further negotiations with that
12 element.

13 Q. Okay. I would like to turn to a
14 totally new area.

15 Just before I turn Mr. Chairman, I would
16 like to ask Ontario Hydro then, I wonder if we go into
17 these questions if we could have a copy of the
18 interchange agreement itself, the existing one that's
19 been expired since 19--

20 Oh, no it is still in place, if we could
21 have a copy of the interchange agreement.

22 THE CHAIRMAN: Two agreements, one is
23 agreement that expired 1983 the other is the agreement
24 with New York Power.

25 MR. MATTSON: Yes, the New York Power

1 agreement, Mr. Chairman.

2 MS. HARVIE: Unless there is some
3 impediment to its provision, or New York Power objects,
4 I don't see any particular problem with providing it
5 Mr. Chairman.

6 THE CHAIRMAN: What would that next
7 undertaking be.

8 THE REGISTRAR: It will be 366.12.

9 MS. HARVIE: Perhaps what I'll do is
10 makes inquiries and advise you if there is a problem.

11 MR. MATTSON: That is satisfactory.
12 Thank you, Mr. Chairman.

13 ---UNDERTAKING NO. 366.12: Ontario Hydro undertakes to
14 provide a copy of the New York Power
Interchange agreement.

15 MR. MATTSON: Q. That first tab is the
16 longest we are going to spend on any exhibit. So if we
17 can move to tab B, which is Exhibit 417, "Materials on
18 Ontario Hydro's Other Water Rental Agreements." Turn
19 to page 13 of that exhibit.

20 You have provided excerpts from the
21 variance analysis of fuel and fuel-related cost that
22 Ontario Hydro submitted at this years Ontario Energy
23 Board hearing. And if you turn to page 14 halfway down
24 the page, in the middle column, 1990 actual, you will
25 see other water rentals. Do you see that Mr. Wigle?

1 MR. WIGLE: A. Yes.

2 Q. And these are set out in millions of
3 dollars and it has nine. So \$9 million.

4 Do you see that?

5 A. Yes.

6 Q. All right. Mr. Wigle, we have
7 attempted to add up the stations that are involved in
8 that \$9 million other water rental and we went just
9 back a few pages between page 7 and page 12 of the
10 exhibit and we identified all the stations that we knew
11 of and the amount that was paid.

12 [11:18 a.m.]

13 If I could just start at page 7 with you
14 and go very quickly through this. At page 7 of the
15 exhibit, this is the OEB exhibit provided again, and it
16 sets out the Niagara Parks Commission?

17 A. Yes.

18 Q. On the right-hand, almost the bottom,
19 the three and a half million approximately? Do you see
20 that?

21 A. Yes.

22 Q. And the next page, page 8 of the
23 exhibit is the Trent agreement, \$75,000?

24 A. Yes.

25 Q. St. Lawrence Seaway Authority

1 agreement, around one and a half million?

2 A. Yes.

3 Q. \$311,000 paid to the Minister of
4 Quebec, Quebec Minister of Energy on page 10? Sorry.

5 A. Yes.

6 Q. And finally, in an interrogatory
7 response at page 11, I'll get a number for this. It's
8 interrogatory -- oh, it's an OEB. I don't need a
9 number.

10 So just turn to page 12, in a response at
11 the bottom of page 12, you also indicated that a
12 payment is made to Hydro Quebec in the amount of
13 144,000 approximately for release of water from the
14 Dozois Reservoir?

15 A. Yes.

16 Q. Now, we have a difference of around
17 \$3.5 million from those totals and the totals set out
18 in the OEB variance analysis.

19 Do you know of any other stations or any
20 other payments Ontario Hydro makes?

21 A. No. And I'm also, I'm not familiar
22 with this table or the background that led to these
23 figures.

24 Q. Is anybody on the panel aware of
25 those figures?

1 MS. HARVIE: I can say, Mr. Chairman, I'm
2 advised that this particular document was reviewed
3 extensively this year or rather last summer at the OEB,
4 in which Energy Probe, my understanding was, was a
5 party, and they did not do any cross-examination on
6 water rentals.

7 MR. MATTSON: That's correct.

8 THE CHAIRMAN: Well, that's interesting,
9 but I don't know if it has anything to do with what
10 we're doing right now.

11 MS. HARVIE: Well, I suppose, Mr.
12 Chairman, my submission was really that I don't know
13 that these witnesses are familiar with this document,
14 and perhaps since it was an OEB exhibit, it might have
15 been appropriate to cross-examine at that stage on how
16 this document was put together.

17 THE CHAIRMAN: There is an apparent
18 discrepancy of a few millions dollars. If that can be
19 clarified, that would be helpful. These witnesses may
20 not be able to do it now, but perhaps we could just
21 make it an undertaking to clarify it. There seems to
22 be some variance.

23 MR. MATTSON: Mr. Wigle, if that could be
24 provided, that would be helpful. Thank you.

25 THE REGISTRAR: Undertaking?

1 THE CHAIRMAN: Yes.

2 THE REGISTRAR: 366.13.

3 ---UNDERTAKING NO. 366.13: Hydro undertakes to clarify
4 the document on water rentals.

5 MR. MATTSON: Q. Mr. Wigle, just very
6 quickly to finish off with this, if you notice at page
7 15 of the exhibit, the other water rental payment falls
8 in 1991 to 6 million, and on page 16 of the exhibit,
9 the '92 rate goes up to 7 million. Do you see that?

10 MR. WIGLE: A. Yes.

11 Q. So it's varying throughout those
12 years. I'm not sure if you'll be able to answer this
13 or not, but I'm just wondering why the fluctuations
14 were occurring when these agreements are, I believe,
15 fixed?

16 A. As I've indicated, I'm not familiar
17 with this table or its background.

18 Q. All right. And you also then
19 wouldn't be aware if Ontario Hydro then is, in fact,
20 forecasting water rental rates here for this variance
21 of fuels and fuel costs?

22 A. No, I'm not.

23 Q. Thank you.

24 If you again turn to page 3 of the
25 exhibit, and we're at the OEB exhibit again, and I'm

1 dealing with the Ottawa River stations now, the ones we
2 spoke of earlier that are split between Ontario Hydro
3 and Quebec.

4 I believe that's set out at section 5.
5 In the first subsection I'm reading the second
6 sentence:

7 Under the terms of the Act, Ontario
8 Hydro pays water rentals to the Quebec
9 government for use of Quebec's share of
10 water at the stations which Ontario Hydro
11 owns exclusively. That's Otto Holden,
12 Des Joachims and Chenaux. Payments to
13 the Province of Ontario are included in
14 the master agreement for 1/2 of the plant
15 capacity and 1/2 of the annual energy
16 generated corresponding to the use of
17 Ontario's share of these waters. These
18 payments are included in table 1, and
19 payments to the Province of Quebec are
20 made at a rate of \$1 per equivalent
21 average horsepower for 1/2 the gross
22 energy generated.

23 Mr. Wigle, first of all, this agreement
24 was signed in 1943 and hasn't been updated or revised,
25 correct?

1 A. That is correct.

2 Q. And the next 25-year period for
3 update or revision would be 1993, correct?

4 A. I'll go with your arithmetic.

5 Q. In fact, the water at these stations,
6 the way the agreement works, is 1/2 Ontario's and 1/2
7 Quebec's, correct?

8 A. Correct.

9 Q. And 1/2 of the power generated will
10 result from Ontario's water and 1/2 from Quebec's?

11 A. That's correct.

12 Q. And the only thing different then is
13 the formula for calculating these rents?

14 A. That's correct.

15 Q. If we look to page 5 of the exhibit,
16 and we add up the three stations, I have them marked in
17 black on page 5 and 6, actually, Mr. Chairman and
18 panel. We have the Otto Holden, almost at close to \$2
19 million. Do you see that, Mr. Wigle?

20 A. Yes.

21 Q. And on page 6, Chenaux is a little
22 over a million, and Des Joachims is 3.5 million, which
23 we've added. It's just over \$6 million. Would you
24 agree with that, approximately?

25 A. Approximately.

1 Q. And then as it indicates at page 10
2 of the exhibit, you'll note that Ontario Hydro pays the
3 Quebec Minister of Energies the same amount of water,
4 the same amount of power generated, \$311,000?

5 A. That's correct.

6 Q. Now the agreement, that's almost 95
7 percent less, we figure, and the agreement is coming up
8 from renegotiation in 1993. Have you had any
9 discussions with the Province of Quebec and how this
10 current inequity may be dealt with at that time?

11 A. Not to my knowledge.

12 Q. You haven't forecast an increase in
13 water rental rates based upon -- that these possibly
14 may increase in 1993, have you?

15 A. Not to my knowledge.

16 Q. And, Mr. Snelson, for planning
17 purposes, we are talking about approximately a million
18 a year. Wouldn't it be prudent, wouldn't a prudent
19 planner take account of increases in water rental rates
20 at a station such as this, or at least forecast for
21 potential increases?

22 MR. SNELSON: A. As I've said, these are
23 existing stations. The water rental components that
24 are important for selecting options for future plans
25 are what the water rentals will be on new stations that

1 may or may not be built according to the planning
2 decisions that are made. And these all affect existing
3 stations.

4 Q. And would have an impact therefore on
5 the Demand/Supply Plan hearing?

6 A. A very small impact.

7 Q. But an impact. And then there would
8 be implications, for example, for the hydraulic
9 operations, electricity rates, consumption, buy-back,
10 et cetera, correct?

11 A. To a very, very small degree, a
12 minuscule degree.

13 Q. But these haven't been taken account
14 of in the Demand/Supply Plan hearing?

15 A. Not to my knowledge. I'm not sure by
16 what mechanism they would have been accounted for.

17 Q. All right, we'll move on to the Trent
18 and Rideau River Stations, page 2 of the exhibit? It's
19 entitled The St. Lawrence Seaway Authority Agreement
20 -- oh, I'm sorry, it's titled "The Trent River
21 Agreement."

22 MR. MATTSON: I apologize, Mr. Chairman.

23 Q. It notes that the agreement was
24 signed in 1947 and has never been revised, and that you
25 are paying a rate of 75,000 a year.

1 Mr. Wigle, certainly the \$75,000 a year
2 is a lot less than would be paid under the provincial
3 master agreement, correct?

4 MR. WIGLE: A. Yes, it is less.

5 Q. And that negotiations have been
6 underway periodically since 1978. What have been the
7 difficulties in revising this agreement?

8 A. It is a jurisdictional problem within
9 the federal government. A number of ministries have
10 had jurisdiction over the Trent system, and I think the
11 original ministry was public works, and the current
12 ministry is the environment. There might have been
13 several in between. The federal government had to
14 transfer the negotiating authority from public works to
15 the current ministry, and that took years.

16 Q. All right, Mr. Wigle, this states
17 that it's between Ontario Hydro, this agreement, and
18 Parks Canada. So that --

19 A. Parks Canada is an element of
20 Environment Canada.

21 Q. All right. Now, does Ontario Hydro
22 expect to be paying a great deal more on these stations
23 once the agreement is finalized? Would that be fair to
24 say?

25 A. This agreement is still under

1 negotiation. I'm not quite sure I know how to answer
2 that.

3 Q. Just the most likely scenario even is
4 that this is \$75,000 in an agreement in 1947.
5 Renegotiations have been since 1978. Don't you think
6 it would be prudent to expect that these water rental
7 rates are going to increase dramatically?

8 A. It will be greater than \$75,000.

9 Q. Thank you.

10 And finally, on the same page, at the
11 bottom of page 2 of the exhibit is the other rental
12 agreement with the St. Lawrence Seaway Authority. Do
13 you see that, Mr. Wigle?

14 A. Yes.

15 Q. These are the Welland Canal stations.
16 And if you turn over to page 3 of the exhibit under
17 subsection F, it sets out:

18 The terms of the agreement are
19 renegotiated every five years and the
20 rates were last set for a period ending
21 June 30, 1988. Negotiations to establish
22 revised rates have been underway since
23 the old rates expired.

24 What has Ontario Hydro's position been
25 with respect to these rates?

1 A. I'm sorry, the rates that have
2 expired?

3 Q. Yes, is it its position that they
4 will remain the same for planning purposes?

5 A. I think one could expect that they
6 will increase.

7 Q. And that hasn't been taken into
8 account for Demand/Supply Plan purposes, has it, Mr.
9 Wigle?

10 A. I cannot answer that question.

11 Q. But according to the evidence in
12 direct, is it the same terms and conditions of the
13 current agreements, or for the provincial master
14 agreement, and you noted that for the federal agreement
15 you are just not sure. Is that the case?

16 A. As Mr. Snelson has indicated, at the
17 moment we're talking about operating stations, stations
18 in existence, and the Demand/Supply Plan is looking at
19 future stations. I'm not sure there is a connection.

20 MR. MATTSON: Mr. Chairman, I'm moving to
21 a new area on federal water rents and some of the
22 studies that have been done. Maybe we can take a break
23 for a few minutes.

24 THE CHAIRMAN: Break for 15 minutes.

25 ---Recess at 11:31 a.m.

1 ---On resuming at 11:48 a.m.

2 THE REGISTRAR: This hearing is again in
3 session, please be seated.

4 MR. MATTSON: Thank you, Mr. Chairman.

5 We're moving fairly quickly actually, Mr. Chairman.

6 Although it might not look like it from this binder, in
7 issues we are.

8 Q. We are turning to an area, there is
9 two federal government documents, and they are
10 contained at tab C. It's Exhibit 418. And the first
11 one I'm not sure who on the panel would like to answer
12 these questions, but the first one is at page 1 of the
13 exhibit. It's an Environment Canada document entitled,
14 "Changes and Water Charges to Power Companies in Canada
15 1968 to 1986." Are you familiar with this publication,
16 Mr. Wigle, or anybody on the panel?

17 MR. WIGLE: A. I have scanned this
18 report.

19 Q. All right. And you would note, Mr.
20 Wigle, that this report sets out some principles of
21 ratemaking that underlie water charges imposed on
22 hydroelectric development by Canadian governments? Is
23 that fair?

24 A. If you say so, yes.

25 Q. Mr. Wigle, has Ontario Hydro given

1 any thought to the principles set out between pages 4
2 and 6 of the exhibit? There are six principles of
3 ratemaking making set out there.

4 A. No, I don't believe so. At the
5 beginning I said I just scanned this report. I started
6 to read it, and it soon become evident that this is a
7 sort of a philosophical discussion or thesis on
8 economics of water pricing, and this is something
9 governments deal with. Ontario Hydro has no
10 involvement in setting water rental rates or the value
11 of hydraulic sites.

12 Q. Given that you have two outstanding
13 agreements with federal agencies or some of your
14 stations, wouldn't it be, for forecasting purposes,
15 wouldn't it be prudent to have at least some
16 familiarity with the six principles that they suggest
17 should be used in ratemaking?

18 A. Perhaps.

19 Q. If you note the six principles
20 between four and six, revenue to pay cost is one at
21 page 4, on page 5 is equity, competitiveness and right
22 to resource use, and on page 6 is consumer
23 acceptability and economic efficiency. Is there
24 anything that you would have to comment on those six
25 principles used as a basis for ratemaking and

1 underlying water charges?

2 A. No, I have no comment.

3 Q. Do you know of any other principles
4 that you know of that might be used by the federal
5 government?

6 A. No, I do not.

7 Q. If you'd turn to page 27 of the
8 exhibit, Mr. Wigle, you'll find excerpts from the 1987
9 Federal Water Policy built by Environment Canada. Do
10 you see that?

11 A. Yes.

12 Q. Are you familiar with that document,
13 Mr. Wigle?

14 A. Yes, I have read this document, some
15 time ago.

16 Q. All right. And if you'd look to page
17 30 of the exhibit?

18 A. Yes.

19 Q. It's entitled "The Policy."

20 And in the last paragraph, the second
21 sentence, I'd like to read this into the record:

22 The key innovation is to recognize
23 the value of the resource, both by
24 promoting the realistic pricing of water
25 used and by respecting the value of

1 recreational water users and other
2 similar uses where direct charges are not
3 applicable.

4 Now, I understand they use the words
5 none -- I apologize, I should have read -- okay, let me
6 just read the next quote, and then I have a question to
7 you.

8 That's at the next page, page 31. I
9 apologize. Under Water Pricing, and the final
10 paragraph sets out:

11 The federal government is committed to
12 the concept of a fair value for water.

13 And three bullets down it states:

14 Undertake, support and promote joint
15 federal/provincial examination of costs
16 and pricing of water for both the
17 consumptive and non-consumptive water
18 uses.

19 Do you see that, Mr. Wigle?

20 A. I see that, yes.

21 Q. And Ontario Hydro views their use of
22 water for hydroelectric power as a non-consumptive use,
23 correct?

24 A. Yes, using the meaning
25 non-consumptive in that the water is not consumed, it

1 is put back into the river in the same quantity, yes.

2 Q. And so certainly this federal water
3 policy statement would apply to Ontario Hydro's
4 operations with respect to hydroelectric power,
5 correct?

6 A. Yes.

7 Q. And can you comment on the principle
8 of using pricing as a way to recognize the value of the
9 water resource?

10 A. Could you rephrase your question,
11 please?

12 Q. Sure. Can you comment on the
13 principle of using pricing as a way to recognize the
14 value of the water resource?

15 A. After reading this report what was
16 left in my mind was that conservation is the issue, and
17 I think water pricing is one element of water
18 conservation. There can be others.

19 Q. All right. Well, just let me turn
20 you to page 32, then, Mr. Wigle. Maybe you can comment
21 at the end of this paragraph. And at page 32, third
22 paragraph down, and I'm reading:

23 Traditionally water management in
24 Canada has focused on harnessing,
25 storing, regulating and diverting

1 supplies to accommodate needs. This
2 approach was convenient when the demand
3 was small. But the growth and demand is
4 resulting in user conflicts. The cost of
5 meeting such demands has escalated, as
6 has public opposition to the adverse,
7 social, environmental affects often
8 associated with them. The need has
9 arisen to explore alternative means of
10 meeting demands and resolving such
11 conflicts.

12 [11:55 a.m.]

13 The key is pricing, both in the literal
14 sense of realistic charges for water
15 services, and in the general sense of
16 taking the resources, many values into
17 account, for direct charges are not
18 pertinent.

19 And, again, if you could comment on the
20 suggestion here in the Federal Water Policy and
21 possibly how that might affect renegotiation of Ontario
22 Hydro's rental rates with the federal government.

23 A. What you have read apparently states
24 one of the federal government's strategies. I think I
25 have stated that with regard to the Trent agreement

1 that we most likely will be paying more than the
2 75,000.

3 Q. If you could turn to page 33 of the
4 exhibit, it's an interrogatory from Energy Probe, ID
5 No. 6.2.219.

6 THE REGISTRAR: That is .126.

7 ---EXHIBIT NO. 367.126: Interrogatory No. 6.2.129.

8 MR. MATTSON: Q. And the question from
9 Energy Probe is with respect to that document and we
10 asked for a number of things in the question, but the
11 response is:

12 Ontario Hydro is not aware of any
13 documents regarding this report.

14 And taking that you are not aware of any
15 documents, can you also confirm that you are not aware
16 of any analyses, studies, opinions, memos or
17 correspondence that are in possession of Hydro
18 regarding this report? Is that also the case?

19 MR. WIGLE: A. I believe we have made a
20 submission to the Federal Water Policy and I think that
21 is in your material somewhere.

22 Q. Yes. That was before the Water
23 Policy was in fact published, but since that time?

24 A. That's quite likely, yes.

25 Q. That there has been nothing done at

1 Ontario Hydro with respect to it?

2 A. Since it has been published?

3 Q. Yes.

4 A. Not to my awareness, no.

5 Q. Thank you. Mr. Wigle, just quickly -
6 and I may have asked this - but why would Ontario Hydro
7 not have done any analysis on this Federal Water Policy
8 in light of these negotiations that are outstanding and
9 in light of your forecasts being done here at the
10 Demand/Supply Plan hearing?

11 A. In negotiations with Parks Canada,
12 the elements that Parks Canada want tabled are put on
13 the table up front and we know what they are, so it
14 doesn't take any great amount of research to know what
15 is being discussed and what they want.

16 Q. But in light of your statements
17 earlier about common business practice and trying to
18 get the best deal for Hydro customers, wouldn't it be
19 prudent for you to have sent your submissions to the
20 federal government if you disagreed with these policy
21 statements?

22 A. Perhaps.

23 MR. SNELSON: A. With respect to the
24 hearing, I mean we are talking here -- I describe this
25 as a minuscule impact on the Demand/Supply Plan and

1 really the only impact that I can think of, the
2 existing water rentals for existing stations has on the
3 Demand/Supply Plan is that if they were raised and
4 additional revenues were, therefore, required then that
5 would have an impact on electricity prices, and then
6 through the price elasticity of demand to electricity
7 price there could be an impact on the amount of
8 resources that are required. So with respect to the
9 existing stations, this truly is a minuscule impact.

10 With respect to future stations, we have
11 done sensitivity analysis to what happens if the water
12 rental holiday isn't approved, what happens if the
13 water rentals are doubled. We have done that sort of
14 sensitivity analysis and we reported it in the
15 interrogatories, so...

16 Q. All right. But, Mr. Snelson, your
17 statement or your response is certainly contingent on
18 the amount that these water rates would rise; correct?
19 And if we are starting from minuscule, it increases as
20 the rates get higher; correct?

21 A. Well, I was talking about the effect
22 on the Plan. I did not say the water rentals were
23 minuscule, I said the effect on the Plan is minuscule,
24 because water rentals are a relatively small part of
25 Ontario Hydro's costs and that the impact on the

1 Demand/Supply Plan is a very indirect impact through
2 electricity rates and, therefore, into electricity
3 demand. So it's a very indirect route that it would
4 have any impacts on the plan at all.

5 Q. All right, Mr. Snelson. Actually I
6 would like to test you on that, and I'm going to an
7 area that I was going to get to later, and that's at
8 tab E, Mr. Chairman, and that's Exhibit 420.

9 And the first part of the exhibit is just
10 some transcript references. These were provided to you
11 at Panel 2, these studies, but if you turn to page 4, I
12 would just like to go to the studies themselves.

13 Page 4 is a study done by the University
14 of British Columbia An Evaluation of Potential Canadian
15 Hydro-Electric Rents by J. T. Bernard, Department of
16 Economics, Laval, and G. E. Bridges and Anthony Scott
17 Department of Economics, University of British Columbia
18 February, 1982. Are you familiar with that document,
19 Mr. Snelson?

20 MR. SNELSON: A. No, I'm not.

21 Q. If you turn to page 31 of the
22 exhibit, it's table 6 it's called, it talks about
23 estimates potential hydroelectric rents, and you'll
24 note in millions of dollars under total rent in 1979
25 dollars for Ontario is 214.92, and we have used the

1 Canadian price index which we have supplied at page 37
2 of the exhibit, but we have calculated that 1990
3 dollars to be over \$400 million.

4 Would that type of increase have an
5 impact on the Demand/Supply Plan hearing?

6 A. It would be quite a small impact.

7 Q. All right. And if you would turn to
8 the next study which is at page 41 of the exhibit, it's
9 the blue gold Hydro-Electric Rent in Canada, authors
10 Richard C. Zuker and Glenn P. Jenkins, and at page 42
11 their credentials are set out.

12 Mr. Zuker is a senior economist on the
13 staff of the Economic Council of Canada, and Glenn P.
14 Jenkins is currently an institute fellow at Harvard
15 Institute for National Development, and it goes on to
16 list their curriculum vitae.

17 MS. HARVIE: Mr. Chairman, I should also,
18 if my friend is referring to their credentials, draw to
19 your attention the sentence appearing on the cover
20 page:

21 The findings of this study are the
22 personal responsibility of the authors
23 and, as such, have not been endorsed by
24 the members of the Economic Council of
25 Canada.

1 MR. MATTSON: That's on page 41, Mr.
2 Chairman, at the bottom of the page. We acknowledge
3 that.

4 Q. Are you familiar with this study, Mr.
5 Snelson?

6 MR. SNELSON: A. No, I'm not.

7 Q. Has any analysis been done at Ontario
8 Hydro or any opinions or memos with respect to this
9 study, Mr. Wigle?

10 MR. WIGLE: A. Not to my knowledge.

11 Q. If you would turn to page 58 of this
12 exhibit, you'll note at the top of the right-hand
13 column at the top of the page, Summary of Estimates it
14 states:

15 We estimate the economic rent on
16 Hydro production, the four provinces, are
17 1,874 million for Quebec, including
18 Church Falls, 753 million for Ontario,
19 552 million for Manitoba and 819 million
20 for British Columbia."

21 And again, if you turn to page 59 you'll
22 note that figure is set out and that it's in 1979
23 dollars.

24 So if we use the CPI we have calculated
25 that to be \$1.4 billion, this study suggested the value

1 of Ontario's water for hydroelectric purposes.
2 You'll note different Hydro rents. Now, would that
3 have an impact with respect to the Demand/Supply Plan
4 hearing, Mr. Snelson?

5 MR. SNELSON: A. \$1.4 billion a year
6 would have a significant impact.

7 Q. Thank you. Now, maybe I can go back
8 to my earlier questions. Oh, and again, there's no
9 analysis or studies that have done by Ontario Hydro
10 with respect to either of these reports?

11 A. Not, to my knowledge.

12 Q. Actually, there's one further point
13 while I'm in this area and I'll finish this whole tab.

14 If you turn to page 72 of that exhibit
15 again that's at tab E, you'll find a January 15th, 1991
16 Financial Post editorial and the reason I bring it up,
17 and you'll note four paragraphs from the bottom should
18 be a black mark on the left-hand side - and it states:

19 Calculating economic rent is no easy
20 task. Total Hydro rents in Quebec,
21 Ontario, Manitoba and British Columbia
22 for 1979 were estimated for the Economic
23 Council by Zuker and Jenkins to be just
24 under four billion, of which Quebec
25 accounts for 47 per cent and another

1 major study by Bernard, Bridges and Scott
2 arrived at the estimate of 2.64 million.
3 We have looked at those numbers in
4 Ontario and I just wanted to ask: Is anybody on this
5 panel familiar with this editorial and did it initiate
6 any studies or studies at Ontario Hydro with respect to
7 these issues?

8 MR. WIGLE: A. Not to my knowledge.

9 Q. Thank you. I would like to turn to a
10 new exhibit which is at tab D.

11 THE REGISTRAR: Tab D.

12 MR. MATTSON: Q. Exhibit No. 419, and at
13 page 2 of the exhibit, which is again an excerpt from
14 the Ontario Energy Board interrogatory that we have
15 looked at earlier, under the title Remaining Stations,
16 Section 6, it states:

17 Water rentals are not paid for the
18 10 stations where Hydro owns the site.
19 And it lists the stations.

20 Mr. Wigle, can you indicate why the fact
21 that Ontario Hydro owns the site means that Ontario
22 Hydro shouldn't pay water rental rates at those
23 stations?

24 MR. WIGLE: A. Water rentals are paid to
25 the province as a condition for leasing Crown land and

1 developing, on those Crown lands, hydraulic sites. In
2 these particular cases, these 10 stations, we actually
3 own the sites so there is no lease.

4 Q. Would Ontario Hydro also own the
5 waterbeds?

6 A. It's a legal question, I cannot
7 answer.

8 Q. All right, thank you.

9 MR. MATTSON: Just one moment, Mr.
10 Chairman.

11 THE CHAIRMAN: Certainly.

12 MR. MATTSON: Q. I recognize this may be
13 a legal question, and I hope it's not, and if it is I'm
14 sure your counsel will object, but our understanding is
15 that the water rental rates are paid upon the
16 riverbeds. Is that your understanding as well?

17 THE CHAIRMAN: You are not talking about
18 these 10 sites but generally speaking?

19 MR. MATTSON: Q. Generally speaking,
20 they are paid on the riverbeds.

21 MR. WIGLE: A. I have seen a number of
22 or heard a number of interpretations of what we are
23 paying for.

24 Q. And have you heard that the water
25 rental rates are paid upon the riverbeds for use of

1 riverbeds?

2 A. That is one of them.

3 DR. CONNELL: I thought we had evidence
4 earlier that they were paid on capacity and energy.

5 MR. WIGLE: That is correct, Dr. Connell,
6 but I believe the question went back more
7 philosophical, as why do we pay water rentals at all,
8 what are we in hydraulic situation?

9 THE CHAIRMAN: The rent is calculated for
10 use of what the province regards as its property and
11 it's based on capacity and energy?

12 MR. WIGLE: That is correct.

13 MR. MATTSON: I think that's as far as I
14 can go on that line of cross-examination with this
15 panel right now.

16 Q. Unless, Mr. Wigle, -- you say that
17 you've heard many interpretations of it. What is
18 Hydro's interpretation; are they paying on the waterbed
19 or are they paying on the site for the use of the site,
20 or are they paying for the use of the waterbed?

21 MS. HARVIE: Well, Mr. Chairman, I don't
22 know that the witness can answer that question.

23 My friend has correctly pointed out that
24 it's a legal question and the witness has said he's
25 heard different interpretations. I'm not sure he's in

1 a position to state what Hydro's position is, if I may
2 suggest that.

3 MR. MATTSON: Mr. Chairman, I have no
4 submissions unless Mr. Wigle knows. He says he's heard
5 many interpretations, but I was just wondering if
6 Ontario Hydro had an interpretation of their own.

7 THE CHAIRMAN: Whatever it is it doesn't
8 really matter because it is a legal matter in any
9 event.

10 MR. MATTSON: Thank you, Mr. Chairman.

11 MR. CHAIRMAN: If it is an issue - I
12 don't expect it will be - the province asks for rent
13 and Hydro pays them.

14 MR. MATTSON: Q. If we could turn to tab
15 F, please, Exhibit 421 entitled, "Materials on Water
16 Rentals for Future Hydraulic Developments." You note
17 that we're moving from existing to the future stations.

18 If you would turn to page 3 of the
19 exhibit, this is an excerpt, this is page 34 from
20 Exhibit 359, Hydro's update and corrections to
21 information pertinent to Panel 6.

22 And, Mr. Wigle, this is Table 1C,
23 Hydraulic Generation Rehabilitation Plan, and you
24 notice on the 1987 inventory report capacity in
25 megawatts.

1 MR. WIGLE: A. Yes.

2 Q. At the very bottom where all the
3 calculations are made it shows total 33 plants and you
4 a have total increase of 83.7 megawatts; correct?

5 A. Yes.

6 Q. And that's in 1987; correct?

7 A. That's what it says, yes.

8 Q. All right. And the last one,
9 Matabitchuan, you subtract -- you have 32 SHARP plants
10 excluding Matabitchuan 10.5 megawatts. Do you see
11 that?

12 A. Yes, that's the arithmetic.

13 Q. And then under the updated
14 information you just have a total as 30 megawatts. Do
15 you see that?

16 A. No, I don't.

17 Q. Just two columns over under updated
18 information you have 30.

19 A. Yes.

20 Q. All right. Can you tell me what
21 accounts for the increase from 10.5 in '87 and your
22 forecast for 30 megawatts in the updated information,
23 and maybe Ms. Basu Roy?

24 MS. BASU ROY: A. For the 1987 inventory
25 report at that time we had not really embarked on our

1 SHARP program and we had very little knowledge about
2 any specifics that would -- in terms of upgrading or
3 redevelopment or additional potential from those 33
4 stations.

5 We now have moved along further, we have
6 started the SHARP program and there has been a broad
7 estimate made at the beginning that will roughly
8 increase the potential from the stations by 10 per
9 cent, I believe it's 10 per cent.

10 Q. And do you have the current estimates
11 for each station as you did in 1987?

12 A. No. Some of the stations we haven't
13 even begun to look at in any great detail because they
14 are not coming up for rehabilitation at this point in
15 time, they are still relatively young in terms of the
16 90-year point in their life when you look at their
17 rehabilitation.

18 [12:16 p.m.]

19 Although they are part of the SHARP
20 program, it will be a few years yet before we start
21 undertaking any detailed studies. So we really don't
22 know what we are dealing with.

23 THE CHAIRMAN: Is that 30 figure just a
24 sort of a ballpark estimate?

25 MS. BASU ROY: The 30 was a rough

1 estimate that was made at the beginning of the
2 potential that we expected to obtain from the SHARP
3 program.

4 THE CHAIRMAN: Out of these main 32
5 sites?

6 MS. BASU ROY: From the 33, recognizing
7 that some --

8 THE CHAIRMAN: Only 32, because
9 Matabitchuan is not included.

10 MS. BASU ROY: Okay, from the 32. But I
11 guess when we started the SHARP program, we just didn't
12 have specific details as to what the increase was
13 likely to be, recognizing that some of the stations we
14 would get additional potential, some stations may be
15 retired or possibly even sold. So it was recognizing
16 in total we were expecting something in the
17 neighborhood of 30 additional megawatts as a result of
18 the implementation of the SHARP program.

19 THE CHAIRMAN: But you haven't allocated
20 that 30 amongst the 32 sites.

21 MS. BASU ROY: We are starting to obtain
22 some information. I believe about the first eight
23 stations we have a little bit more information, but for
24 many of the stations we don't have any detailed
25 information.

1 MR. MATTSON: Q. And if I wanted to find
2 the information on the eight stations, is that
3 available?

4 MS. BASU ROY: A. That was available in
5 response to an interrogatory. I believe we were
6 looking at that yesterday.

7 Q. All right, we can find that.

8 Ms. Basu Roy, under cross-examination by
9 Mr. Moran, you can turn it up or you don't have to. If
10 you would like, it's transcript 83, page 14732, or at
11 page 4 of the exhibit. At the top of the page, cross
12 examining by Mr. Moran, he asked:

13 "I'm just wondering where that
14 additional 30 megawatts is taken into
15 account in the process that we are
16 working our way through here. Is that
17 part of the attainable potential?"

18 You indicated:

19 "I believe I mentioned that that was
20 included under the developed potential."

21 My question then is, are you relying upon
22 this 30 megawatts then for planning purposes?

23 A. It is not included in the attainable
24 potential. It is not part of the 14 to 1800 megawatts.
25 It is something that will be taken into account in the

1 overall Demand/Supply Plan.

2 Q. So it's developed potential. That's
3 how you are looking at it?

4 A. That's how we have treated it, that
5 is correct.

6 Q. I would take it that in order to rely
7 on these for planning purposes, does Hydro expect the
8 cost/benefit ratios of these stations to be favourable?

9 A. We expect that the cost/benefit
10 ratios will be favourable for a sufficient number of
11 stations that we will obtain 30 additional megawatts.
12 They may not all be cost-effective.

13 Q. Thank you. If you could turn to page
14 8 of the exhibit. Just using this as a way of
15 clarification, it's an interrogatory from Moose River/
16 James Bay Coalition. It is Interrogatory No. 6.26.214.

17 THE REGISTRAR: That is .127.

18 ---EXHIBIT NO. 367.127: Interrogatory No. 6.26.214.

19 MR. MATTSON: Q. If you look at the
20 bottom of the page, Ms. Basu Roy, the very bottom in
21 response it notes:

22 The rehabilitation of Merrickville on
23 the Rideau River is currently estimated
24 to have a cost/benefit ratio of .88. And
25 rehabilitations on Sidney, Seymour and

1 Frankfurt on the Trent are estimated to
2 have cost/benefit ratios of .69, .63, .53
3 respectively.

4 Then it states that economic evaluations
5 for another four are still in progress.

6 And the question is, those cost/benefit
7 ratios are very favourable cost/benefit ratios, are
8 they not?

9 MS. BASU ROY: A. They are attractive,
10 yes.

11 Q. And how typical are those of Ontario
12 Hydro's cost/benefit ratios of other stations? Can you
13 expect the other rehabs to have similar cost/benefit
14 ratios?

15 A. We really haven't started any of the
16 evaluations for the others yet, so it's a little bit
17 too premature to make that conclusion.

18 Q. So you don't know where they will
19 come in in comparison to these cost/benefit ratios?
20 You don't know if they will be favourable or not?

21 A. That's correct.

22 Q. And these cost/benefit ratios also
23 reflect the 10 per cent premium, correct?

24 A. I'm not sure on that. I don't know
25 what time, at what point in time the evaluations were

1 undertaken, as to whether or not the premium was in
2 place. I believe it was, or at least it was in the
3 sensitivities that we were running at that time.

4 Q. And it will be in place for the four
5 that are being done now?

6 A. That's correct.

7 Q. And what about water rents? Do the
8 cost/benefit ratios here assume water rents, or do they
9 exclude them?

10 A. Whatever would be in place for the
11 Trent system, for the three on the Trent, whatever
12 would be based on the current formula.

13 Q. So the current one, the \$75,000 one,
14 the agreement is now expired, correct?

15 A. I am not exactly sure what the water
16 rental assumptions were for these evaluations.

17 Q. Do you know what the water rental
18 rate assumptions will be for the four now being
19 conducted?

20 A. I don't know the specifics of the
21 assumptions.

22 Q. So it's clear then with respect to
23 the four that you don't know of, could you undertake to
24 find out whether or not the water rental rates for
25 those stations assumes that they will be exempt from

1 water rental rates because they are under 10 megawatts,
2 or if, in fact, they have included them?

3 A. I think that we have indicated here
4 that the economic evaluations are still in progress. I
5 don't know the current status of them.

6 Q. Is it fair to say to say, Ms. Basu
7 Roy, that given earlier testimony, that because these
8 four stations are still -- economic evaluations are
9 still outstanding, are still in progress, is it fair to
10 assume that you wouldn't have looked upon the OEB
11 interrogatory response I referred to earlier that said
12 1994? They may no longer be exempt from water rental
13 rates? Is it fair to assume that these stations didn't
14 include...

15 A. We may have look at that as a
16 sensitivity.

17 Q. Thank you.

18 Could you turn to page 9 of the exhibit?
19 It's an interrogatory from Energy Probe, ID No. 5.2.20.

20 THE REGISTRAR: That is .128.

21 ---EXHIBIT NO. 367.128: Interrogatory No. 5.2.20.

22 MR. MATTSON: Q. And if you turn the
23 page over, you'll find a letter dated May 30, 1990 from
24 Hydro's president and CEO, Robert Franklin, to Lyn
25 McLeod, the Minister of Energy and Natural Resources.

1 I'd like to take you to the middle of the
2 second paragraph, a sentence in, and I'm reading:

3 As you are aware, the economics of
4 many small hydraulic sites are already
5 marginal as the returns are relatively
6 small compared to the capital investment.

7 I have moved to the next paragraph:

8 The 5 million or so that the levy is
9 estimated to yield must represent a
10 relatively inconsequential revenue item
11 for the government. However, it creates
12 a significant deterrent to the
13 development and rehabilitation of small
14 hydraulic sites by either Hydro or
15 private developers, as does the existing
16 energy charge.

17 And Ms. Basu Roy, would it be fair to
18 say, and I'm not sure if you would adopt that
19 reasoning, but would it be fair to say that Hydro feels
20 that many small hydro plants are only economically
21 viable if they are exempt from water rental rates?

22 MS. BASU ROY: A. That could be the case
23 for some.

24 Q. And in those cases, would that mean
25 that the value of water for the hydraulic development

1 would be zero?

2 A. I'm not too sure if I understand your
3 question.

4 Q. Would that mean that Ontario Hydro
5 wouldn't value that water anything above zero if they
6 had to pay water rental rates?

7 A. You are suggesting that if the water
8 rental is in place, then it would be uneconomic to make
9 the redevelopment?

10 Q. Yes, I believe I asked that, but does
11 that mean that Ontario Hydro needs free fuel basically
12 here?

13 A. In order to make it economically
14 viable?

15 Q. That's right.

16 A. That could be the case for some
17 stations.

18 Q. Wouldn't it also be fair to say that
19 there may be other competing water users who would
20 value that water at some figure that is greater than
21 zero?

22 A. I can't comment on that.

23 Q. Can you explain, Ms. Basu Roy, the
24 discrepancy that I find at any rate between the
25 favorable cost/benefit ratios we have reviewed on the

1 four stations, and Mr. Franklin's assertion to the
2 contrary that it would be a significant deterrent?

3 A. The cost/benefit ratios that we were
4 looking at in Interrogatory 6.26 and 214 are still
5 viewed as being preliminary. We have not committed any
6 of those redevelopments. And, in fact, I'm aware of in
7 at least one case where the economics is now marginal
8 or perhaps unattractive.

9 Although at the time you are looking at
10 this they may have looked very attractive, studies are
11 still ongoing, and they may not all come out looking
12 very attractive, and we may also be looking at a number
13 of stations early in the program, where they would be
14 more attractive. Later on in the program they may not
15 be so attractive.

16 Q. Given then that you would share the
17 concerns of the significant deterrent to development
18 rehabilitation possibly, if these water rental rates
19 were imposed, how then can Ontario Hydro include these
20 stations in their developed potential?

21 A. We have only included 30 megawatts in
22 total from the entire program.

23 Q. But this water rental rate charge
24 would presumably create a significant deterrent
25 generally. It would be a sort of a generic issue,

1 would it not?

2 MR. FLOOK: A. Perhaps I can help. No,
3 not necessarily.

4 Q. Mr. Flook, the 30 that's now being
5 depended upon is three times more than you assumed back
6 in 1987, correct?

7 A. But looking at the program, is still
8 a conservative estimate of what the potential is there,
9 because you look at even those first few stations, if
10 you are looking at perhaps around 15 megawatts out of
11 them, 4 out of the 8. So the 30th is perhaps a
12 conservative number used by the planners.

13 Q. Then let's get back to an earlier
14 question. Why would Mr. Franklin then be so worried,
15 worried enough that he would write to the minister
16 expressing his concerns?

17 A. I believe MNR and Ontario Hydro
18 embarked upon a small hydro development program to
19 encourage small hydro development, and I believe the
20 thrust of that letter was just that, new small hydro
21 development in the private developers.

22 Of course some of Ontario Hydro's
23 stations fall under the same category, and they
24 certainly would then be treated in the same way.

25 Q. Mr. Flook, if you also look at page

1 10, you will see that it's talking about development
2 and rehabilitation. Do you see that?

3 A. Both of them, yes. As I say, the
4 main thrust of that letter is small hydro, as it starts
5 off talking about.

6 Q. Would it be fair to say, though, that
7 this letter certainly would be in line with Ontario
8 Hydro's current common business practices, though, to
9 try and get the lowest water rental rate possible for
10 the ratepayers?

11 A. Well, certainly if there is a
12 benefit, you are going to make use of it.

13 Q. Thank you. If you could turn to page
14 26 of the exhibit?

15 THE REGISTRAR: 20?

16 MR. MATTSON: 6. And it's an
17 interrogatory from Energy Probe numbered 6.2.102.

18 THE REGISTRAR: That is .129.

19 ---EXHIBIT NO. 367.129: Interrogatory No. 6.2.102.

20 MR. MATTSON: Q. If you turn the page to
21 page 27, you will find we are provided with a letter
22 from Hydro's J.B. Doyle to MNR's M.R. Garrett on the
23 subject of water rentals for the proposed Little
24 Jackfish station. And in the fourth paragraph down I
25 am reading:

1 From our perspective proceeding with
2 the new hydraulic project has many
3 advantages. However, the high cost of
4 northern construction severely impacts on
5 the relative economic viability of this
6 option. The avoidance of water rental
7 charges, both capacity and energy, for,
8 say, the first 30 years of operation
9 would enhance the economics of this
10 option.

11 And then the next page that you've
12 provided is the response, Michael Garrett in the middle
13 of the second paragraph states that:

14 The MNR is prepared to allow Ontario
15 Hydro the same 10-year moratorium on
16 water power rental rates as the private
17 sector is receiving for newly developed
18 sites.

19 And my question then, I'm not sure who
20 this would be directed to, is what made Hydro decide
21 that the economics of the option were viable with the
22 10-year holiday, as opposed to the 30-year holiday that
23 was requested originally?

24 MR. WIGLE: A. I think when this letter
25 was written it was our philosophy that we would ask

1 perhaps for a little bit more than we hoped to receive. ^

2 Q. And that would be in line with common
3 business practices?

4 A. Perhaps.

5 Q. Thank you. If you turn to page 18 of
6 the exhibit, another transcript excerpt, and Ms. Basu
7 Roy, this was during Ms. Kleer's cross-examination.
8 And if you look to lines 10 and 11, you said that you
9 have already established the 10-year grace period for
10 some of the sites. For which sites other than the
11 Little Jackfish is this true?

12 MS. BASU ROY: A. We have a 10-year
13 water rental holiday, I guess, established for Little
14 Jackfish. As well we have a grace period for Patten
15 Post.

16 Q. And the Patten Post one is a
17 life-long exemption, correct?

18 A. Effectively, yes.

19 Q. And just again, there are no others
20 that you know of, Ms. Basu Roy, that you may have
21 exemptions on, that Hydro has exemptions on?

22 A. We don't have any other exemptions in
23 hand that I'm aware of.

24 Q. Is anybody on the panel aware of any
25 others?

1 Thank you.

2 THE CHAIRMAN: Are there any you don't
3 have exemptions on?

4 MS. BASU ROY: Are there any that we have
5 not received?

6 THE CHAIRMAN: Yes.

7 MS. BASU ROY: We haven't had any
8 communication from the government saying that they will
9 not give us water rentals.

10 THE CHAIRMAN: So you've never been
11 refused.

12 MS. BASU ROY: There would be other, we
13 are negotiating for some of them.

14 THE CHAIRMAN: Up to now you've never
15 been refused at least the 10-year period?

16 MS. BASU ROY: We are in the process of
17 negotiating for some. For Mattagami and Niagara, I
18 believe.

19 [12:35 p.m.]

20 We have had some refusal and I guess we
21 are working on that refusal.

22 MR. MATTSON: Q. Just a clarification.
23 The only refusal that you would have received, if I'm
24 correct -- or not a refusal, but the only indication of
25 a refusal would be that any of these stations under 10

1 megawatts after 1994 you've been told will not be
2 exempt from water rental charges; correct?

3 MS. BASU ROY: A. We have a letter from
4 the Minister stating that.

5 Q. Thank you.

6 MR. MATTSON: Mr. Chairman, I would like
7 to move to a new area completely. We have finished
8 with water rental rates. If I could just take a
9 moment.

10 Q. I'm not sure who to direct my
11 questions at, but I would like to talk about the
12 competing users of the water and begin with navigation.

13 And would you agree that in some cases
14 there could be tradeoffs between the needs and wants of
15 navigation uses in the province and needs and wants of
16 hydroelectric generation?

17 MR. MCCORMICK: A. There can be.

18 Q. All right. And, as I understand it,
19 the existence of these competing uses has necessarily
20 led to laws and agreements which codify the right of
21 navigation minimums over hydroelectric generation;
22 correct?

23 MR. WIGLE: A. That is correct.

24 Q. Specifically in Ontario, would you
25 agree that the Ottawa River Act is one of those?

1 A. It's been a number of years since I
2 have read that Act. I am not sure.

3 Q. All right. At tab G, which is
4 Exhibit 367.119, it is the Ontario Hydro submission to
5 the Inquiry on Federal Water Policy, and I would have
6 you turn to page 12 under navigation rights, and I'm
7 reading:

8 On some Ontario rivers (e.g. Ottawa)
9 legislation currently in force states
10 that commercial navigation takes
11 precedence over other users of the
12 river. Commercial navigation has
13 apparently all but disappeared from a
14 portion of these rivers, yet the Act is
15 still used on occasion to demand flow
16 augmentation during the dry season.

17 Now, when it says some Ontario rivers,
18 Mr. Wigle, what other Ontario rivers do you know where
19 an Act such as this would be in force?

20 A. Well, certainly the St. Lawrence
21 River is a navigable river.

22 Q. Are there others?

23 A. There probably are. I cannot recall
24 any at this time.

25 Q. Anybody on the Panel -- these are

1 Ontario Hydro's submissions.

2 MR. McCORMICK: A. Are you preferring to
3 the Navigable Waters Protection Act?

4 Q. No, I'm referring to an act such as
5 this one which specifically set out navigation
6 precedence over hydroelectric power. If not, I'll
7 continue.

8 The second example of, and I said laws or
9 agreements, a second example that I could find is the
10 lease between the St. Lawrence Seaway Authority and
11 Ontario Hydro; is that correct, Mr. Wigle?

12 MR. WIGLE: A. Yes. We have a lease
13 with the St. Lawrence Seaway Authority.

14 Q. And this lease guarantees minimum
15 rights to navigation over that of the needs and wants
16 of the hydroelectric generator?

17 A. I suppose you can say it that way.
18 The agreement with the St. Lawrence Seaway Authority
19 allows us to convey water through the Welland Canal,
20 and because velocity is a great concern to ships moving
21 through a canal, this was a feature of the agreement,
22 that if a ship got in trouble for whatever reason that
23 the velocities would be reduced. Cross currents were
24 another consideration.

25 Q. Mr. Wigle, I believe it's less

1 specific than that. I have it set out at tab H which
2 is Exhibit No. 422, at page 32. We asked for that
3 agreement and it was provided to us, Interrogatory No.
4 6.2.212.

5 THE REGISTRAR: That is .130.

6 ---EXHIBIT NO. 367.130: Interrogatory No. 6.2.212.

7 MR. MATTSON: Q. If you turn to page 39,
8 it's very difficult to read, but at the very bottom of
9 the page in the middle of the paragraph it says that:

10 The Hydro water and its surplus
11 water provided that the quantity of such
12 water shall not at any time exceed the
13 quantity which the lessor may
14 determine can be so passed safely without
15 detriment to navigation and/or the
16 maintenance and enlargement and/or
17 improvement of structural work of the
18 Welland Canals.

19 And I just point that out, that's without
20 detriment to the navigation, that would be any
21 navigation user; correct?

22 MR. WIGLE: A. That would be any ship
23 moving through the Welland Canal.

24 Q. It wouldn't be just in emergency
25 situations?

1 A. The amount of water that the St.

2 Lawrence Seaway Authority allows us to pass through
3 that canal is limited on the basis of the velocity that
4 volume of water would create, and the impact it would
5 have on ships and that is their judgment.

6 Q. Mr. Wigle, do you know if Ontario
7 Hydro ever voluntarily undertakes to grant competing
8 use navigation rights or privileges on a river when not
9 required to do so by law, agreement or government
10 direction?

11 A. Several days ago during
12 cross-examination there was a question, the term
13 navigation was used with regard to the Decew, the same
14 system, tail race, that we reduced flow for
15 navigation.

16 I believe I interpreted navigation. This
17 was a high school, School Boys' Rowing Regatta that
18 takes place periodically on weekends during the summer
19 and we voluntarily reduce the flow to provide
20 favourable and consistent velocities for this
21 competition.

22 Q. I'm aware of that example and I was
23 aware of it in the transcript, but is that not - you
24 said voluntarily - is that not required by the Act?

25 A. I'm not sure what act again you

1 referring to now.

2 Q. I'm sorry, the lease with the St.
3 Lawrence Seaway Authority?

4 A. No, it is not.

5 Q. And on those occasions then, who
6 makes the decisions at Ontario Hydro when and if they
7 will allow a competing use to take priority over
8 Ontario Hydro's hydroelectric needs?

9 A. This is one of the many citizenship
10 ventures Ontario Hydro voluntarily enters into.

11 Q. But that's not my question.

12 A. Could you repeat the question then,
13 please.

14 Q. Yes. Who makes these decisions at
15 Ontario Hydro to allow a competing use such as
16 navigation to take precedence over their hydroelectric
17 needs?

18 A. Ontario Hydro does.

19 Q. But who at Ontario Hydro? Is this an
20 arbitrary decision, is there any decision-making
21 process that goes on; is it made by the station
22 manager?

23 A. I would say the region's branch at
24 Ontario Hydro makes this decision.

25 Q. And is there any policy direction or

1 is there any basis upon which it is made?

2 A. I don't believe there's any corporate
3 policy. We get a request from this organization and we
4 try to do our best to meet their request.

5 Q. We note the financial impact on
6 Ontario Hydro with respect to that constraint, and it
7 is set out at tab H on that exhibit, it's already
8 included in Exhibit 367.5 and it's page 3 at tab H of
9 our material.

10 We note the financial impact on Ontario
11 Hydro is a \$100,000

12 Is there a certain amount that the
13 regional branch would not be able to make this
14 division, it would be out of its jurisdiction and it
15 would go to someone else?

16 MS. HARVIE: Well, Mr. Chairman, this is
17 all very interesting I'm sure, but I don't know what it
18 has to do with the matters before the Board.

19 Mr. Wigle has explained that we have
20 voluntary citizenship constraints and we abide by the
21 Act. I don't know why it matters who makes the
22 decision, at what level of financial risk it moves to a
23 higher authority, I have no idea how that is relevant.

24 MR. MATTSON: Mr. Chairman, if you would
25 like to hear, I think it's clear that we have also

1 heard examples in the evidence - I don't need to go
2 over - where Ontario Hydro has decided that
3 hydroelectric power supersedes other competing uses on
4 a river.

5 And I think we heard about the Mattagami
6 Aboriginal hunters who were stranded at one point for
7 two or three days and their complaints.

8 THE CHAIRMAN: Well, you may have heard
9 about them, I haven't heard about them.

10 MR. MATTSON: Oh, well then, maybe I
11 should point them to you now. I thought we dealt with
12 this already in evidence. But just for the relevance,
13 I'm trying to establish in the province what acts are
14 out there and have been put in place to --

15 MS. HARVIE: Well, satisfy yourself, Mr.
16 Mattson.

17 MR. MATTSON: I'm sorry, I would just
18 like to finish -- to establish who takes priority over
19 who on any given river in the province, and it's not to
20 satisfy myself, it's certainly with respect to if any
21 terms and conditions are to be applied on Hydro's
22 hydraulic plan in the future, we would like them to be
23 consist from the northern part of Ontario to the
24 southern part.

25 We are just trying to take a look at how

1 in the past these competing uses have been dealt with
2 by legislation, agreement, leases or Ontario Hydro's
3 regional managers.

4 THE CHAIRMAN: Well, you are entitled to
5 ask what agreements, leases, policies and so on, but in
6 getting into the internal workings of the proponent as
7 to how they do their decision-making process - that's
8 come up several times - and it really isn't terribly
9 relevant as far as we are concerned.

10 MR. MATTSON: Thank you, Mr. Chairman.

11 THE CHAIRMAN: Ontario Hydro says what
12 its policy is and how they internally do that is up to
13 them.

14 MR. MATTSON: Thank you, Mr. Chairman.

15 Q. Are there any acts similar to the
16 Ottawa River Act, Mr. Wigle, or to the St. Lawrence
17 Seaway Authority's lease which would apply to the
18 Mattagami River and accord navigation minimum rights at
19 the expense of hydroelectric power?

20 MR. WIGLE: A. No, I don't believe there
21 are.

22 Q. And are there any acts similar to the
23 Ottawa River Act or agreements similar to the St.
24 Lawrence Seaway Authority's lease on the Abitibi River
25 which accords navigation minimum rights at the expense

1 of hydroelectric power?

2 A. No.

3 Q. Would that also be fair to say of the
4 Little Jackfish River?

5 A. Yes.

6 Q. And in a general way are any of the
7 rivers which have not been excluded from the attainable
8 potential by Ontario Hydro subject to acts or
9 agreements which accord navigation minimums at the
10 expense of hydroelectric power?

11 MR. MCCORMICK: A. All hydroelectric
12 developments are subject to approval under the
13 Navigable Waters Protection Act, and with new
14 developments when -- after an Environmental Assessment
15 Act approval, they will then be subject to Navigable
16 Waters Protection Act approval.

17 Q. Mr. McCormick, with respect, my
18 question is on an act such as the Ottawa River Act or
19 the St. Lawrence Seaway Authority lease which
20 specifically set out navigation minimums.

21 Do they apply to any of the rivers which
22 have not been excluded from your attainable potential?

23 A. We aren't aware of any comparable
24 acts.

25 Q. If we could turn to tab I, it's

1 Exhibit 423, Mr. Chairman, and what we have here is a
2 submission to Mattagami Environmental Assessment
3 process and at page 2 of the exhibit is a letter from a
4 law firm on behalf of some of the people involved in
5 the process, and at page 5 are his general comments,
6 and the first paragraph --

7 THE CHAIRMAN: These comments -- I am
8 sorry, I'm just trying to keep up with you. These
9 comments are made by who?

10 MR. MATTSON: Moose Factory and New Post
11 set out on page 4. At the top of page 4 you'll see
12 without prejudice comments, Moose Factory and New Post
13 First Nations.

14 And if you look to page 1 of the exhibit
15 you'll note that these were included as Appendix D from
16 the Mattagami Environmental Assessment.

17 THE CHAIRMAN: And that's Mattagami
18 Environmental Assessment filed on behalf of Ontario
19 Hydro; is that right?

20 MR. MATTSON: Yes, Mr. Chairman.

21 Q. And if you look at page 5 of the
22 exhibit, and I'm reading at the top of the first full
23 paragraph:

24 The specific concerns noticed below
25 include potential impacts of the

1 operation of the Mattagami Complex on the
2 navigability of certain portions of the
3 Mattagami/ Moose Rivers. Indeed it
4 already seems clear that the operation of
5 the Mattagami Complex has caused hunters
6 to be stranded for several days at a time
7 because of the reduction or cessation of
8 flows below the Kipling Generating
9 Station.

10 And my question, I guess Mr. McCormick
11 you've been answering is, would an act similar to the
12 Ottawa River act prevent an occurrence similar to this
13 from happening?

14 MR. MCCORMICK: A. I think there's other
15 means of achieving that.

16 THE CHAIRMAN: No, no. Please answer the
17 question that you were asked, if you can.

18 MR. MCCORMICK: Would an act
19 comparable --

20 THE CHAIRMAN: Would a statute similar to
21 the Ottawa River statute prevent occurrences such as
22 this happening, as I understand the question?

23 MR. MATTSON: That's correct.

24 MR. MCCORMICK: I'm not familiar with
25 that legislation, so I have trouble answering that.

1 THE CHAIRMAN: All right.

2 MR. MATTSON: We reviewed it, I'll go
3 back.

4 Q. But what about another question.
5 Would a situation such as this have been prevented if a
6 lease such as the one Ontario Hydro entered into with
7 St. Lawrence Seaway Authority were in place?

8 MR. MCCORMICK: A. I'm not familiar
9 enough with the lease. Your question is founded on
10 something occurring which we only have an indication in
11 a letter. Whether it's true or not is subject to
12 confirmation.

13 Q. All right. Mr. McCormick, would you
14 agree with me, however, that on this occasion that has
15 been set out, navigation minimums were not respected?

16 THE CHAIRMAN: Assuming of course -- take
17 an assumption this happened, whether it happened or not
18 is an open question, but assuming it happened.

19 MR. MATTSON: That's true.

20 MR. MCCORMICK: Well, the station was
21 constructed at a time without the benefit of
22 environmental assessment legislation and environmental
23 assessment processes to determine what acceptable
24 minimums would have been.

25 MR. MATTSON: Q. So is that a yes, there

1 were not navigation minimums taking place here if in
2 fact this happened?

3 A. Navigation minimums do not exist to
4 my knowledge.

5 Q. Thank you. If you could turn to page
6 12, and we're going back to tab G, and this is the
7 Federal Water Policy again, submission, Interrogatory
8 No. 119.

9 Again, at page 12, the bottom of the
10 page, and these are Ontario Hydro's submissions, and I
11 would like to read this into the record:

12 On occasion the Federal Government
13 has cited the Act (e.g. the Ottawa River)
14 and pointed out to the utilities that
15 they would contravene the navigational
16 minimums if they withheld water in
17 upstream reservoirs during drought
18 periods. Ontario Hydro has always
19 complied with these navigation minimums
20 at a considerable cost to the power
21 consumer. It does so willingly when
22 there is a measurable impact on
23 commercial navigation. When navigation
24 is either no longer existent or
25 restricted to recreational boating,

1 Ontario Hydro feels that the benefit of
2 the power consumer should come before
3 that of a small number of pleasure
4 boaters.

5 [12:56 p.m.]

6 My question is, Mr. McCormick, is it fair
7 to assume that without the Ottawa River Act
8 establishing navigational minimums, these pleasure
9 boaters would in fact have been stranded?

10 MR. WIGLE: A. I don't think you can say
11 that as a general statement.

12 Q. Well, would Ontario Hydro -- you feel
13 on the Ottawa River that the benefit of power consumers
14 should come before that of a small number of pleasure
15 boaters, is that correct?

16 MR. MCCORMICK: A. I think Ontario Hydro
17 attempts to act responsibly in all situations, and it
18 doesn't require legislation to do that. If we felt
19 that it was a legitimate cause for concern, our policy
20 on the mitigation effects is such that something would
21 be done.

22 Q. But here's an example, you are asking
23 for an act to be changed, correct? The Federal Water
24 Policy, in your submissions?

25 MR. WIGLE: A. I think the subject here

1 in this submission was Lake Timiskaming, where there
2 was some commercial navigation in the years gone by,
3 but that doesn't exist today. And releasing water from
4 upstream reservoirs to maintain the navigation limits,
5 the old navigation limits, perhaps those are subject to
6 this point.

7 Q. Again, Mr. Wigle, I agree. But my
8 question is that if the Act wasn't in place, Ontario
9 Hydro would act differently on that river, correct?
10 The people who now use the river, the small pleasure
11 boaters if the act wasn't in place would have to be
12 awfully careful that Ontario Hydro didn't feel the
13 benefit of the power consumers come before them.

14 A. Well, I think Ontario Hydro has a
15 good record responding to local groups downstream or
16 upstream of its stations, in responding to their needs.
17 As my original point was, I don't think you can draw a
18 general conclusion on that. We respond to situations
19 in a local area, and we don't release water or not
20 release water without due regard to what goes on around
21 us.

22 Q. Is it fair to say that if similar
23 acts or agreements such as the St. Lawrence Seaway
24 agreement -- similar acts as the Ottawa River Act or
25 the agreement with the St. Lawrence Seaway Authority to

1 establish navigation minimums, is it fair to say that
2 they would also be at a considerable cost to Ontario
3 Hydro, if applied to any of the rivers not excluded
4 from your attainable potential?

5 A. I cannot answer that question.

6 MR. McCORMICK: A. All the rivers
7 subject -- within the attainable potential are subject
8 to site-specific environmental assessments. If this is
9 an important issue that affects on navigation, it will
10 be mitigated like any other effect.

11 I would point to the Big Chute
12 environmental assessment, where navigation issues were
13 a very important consideration, and there were several
14 mitigation measures selected to maintain water levels
15 and velocities for the purposes of navigation.

16 Q. Mr. McCormick, I'm not talking about
17 leaving it to Ontario Hydro's good will. I am
18 suggesting that if an act was put in place, such as the
19 Ottawa River Act, on the rivers not excluded from your
20 attainable potential, would they also come at a
21 considerable cost to the power consumer, as you say to
22 the Federal Water Policy the Ottawa River Act does?

23 A. I'm sorry, you lost me there. Would
24 you repeat that?

25 Q. Yes. I'm talking about acts or

1 agreements such as the Ottawa River Act.

2 THE CHAIRMAN: Yes, you are talking about
3 two things though, because you said good will. I think
4 what Mr. McCormick said, if I heard him correctly, he
5 was talking about the kind of agreements that are made
6 at the site-specific level which take these matters
7 into account. So that's not necessarily a good will
8 situation. That's an agreement similar to the
9 agreement you are talking about.

10 MR. MATTSON: All right, Mr. Chairman.

11 Q. Then I'll limit my question just to
12 an act such as the Ottawa River Act. If an Ottawa
13 River Act, the type of legislation as the Ottawa River
14 Act, were put in place on any of the rivers not
15 excluded from your attainable potential, would it also
16 come at a considerable cost to the power consumer, as
17 you suggest...

18 THE CHAIRMAN: The answer to that has
19 been given that they don't know.

20 MR. MATTSON: All right.

21 THE CHAIRMAN: You have their submission
22 that they made on page 12 and 13, and I take it that
23 they adopt that submission as being correct.

24 MR. MATTSON: Finally my only other
25 question then, Mr. Chairman, in this area would be, if

1 the same constraints that now apply at the existing
2 operations, such as the Ottawa River Act, were put in
3 place on the rivers not excluded from your attainable
4 potential, would you agree at least that the economic
5 attractiveness of your proposals would decrease?

6 MR. MCCORMICK: A. I don't think we
7 could agree to that, because we are anticipating
8 through mitigation measures, and we have talked about
9 contingencies. That if that was an issue, that would
10 be dealt with under Environmental Assessment Act
11 legislation.

12 MR. MATTSON: Thank you.

13 Mr. Chairman, maybe we could break for
14 lunch and continue after.

15 THE CHAIRMAN: Thank you. You are still
16 on track?

17 MR. MATTSON: Yes, Mr. Chairman. We're
18 actually a little ahead of time.

19 THE CHAIRMAN: Thank you.

20 We'll break until 2 :30.

21 THE REGISTRAR: This hearing will adjourn
22 until 2:30.

23 ---Recess at 1:02 p.m.

24 ---On resuming at 2:31 p.m.

25 THE REGISTRAR: This hearing is again in

1 session. Be seated, please.

2 MS. HARVIE: Mr. Chairman, we have got
3 two undertakings to file. One is 366.6, and the other
4 is 366.7. So I'll drop off some copies with Mr. Lucas
5 and leave any extras on the table back here for parties
6 who would like to pick them up. Thank you.

7 THE CHAIRMAN: Thank you.

8 Mr. Mattson?

9 MR. MATTSON: Thank you, Mr. Chairman.

10 If we could turn to tab J of the
11 materials, which is Exhibit 424, and on page 1, it's an
12 interrogatory from Energy Probe numbered 6.2.123.

13 THE REGISTRAR: That is .131, Mr.
14 Chairman.

15 ---EXHIBIT NO. 367.131: Interrogatory No. 6.2.123.

16 MR. MATTSON: Q. I'm just reading from
17 the response the second sentence in:

18 After an order in council has been
19 granted by the provincial government to
20 proceed with the project, Ontario Hydro
21 acquires flooding easements from private
22 landowners adjacent to dam sites. The
23 terms of these easements can vary from
24 site to site and generally include the
25 following Riparian rights, to flood,

1 overflow and erode the land, to raise,
2 lower, alter and/or fluctuate the level
3 of the waters.

4 I'd like to ask first of all -- I'm not
5 sure who I should address this to on the panel, but how
6 does Ontario Hydro define the word adjacent?

7 MS. HARVIE: Mr. Chairman, maybe I need
8 some clarification.

9 Are you asking for a legal interpretation
10 of the term adjacent, or are you asking for a
11 common-sense definition, as in next to or what?

12 MR. MATTSON: I'm asking as it's used in
13 the interrogatory response.

14 THE CHAIRMAN: Perhaps you could give us
15 some idea what the implications of the question are,
16 and that might help.

17 MR. MATTSON: Sure, Mr. Chairman, just as
18 it's used in the response. It sets out Ontario
19 Hydro's, how they deal with Riparian rights who are
20 adjacent to dam sites.

21 THE CHAIRMAN: You want to know how far
22 away from the actual flooding areas? Is that what you
23 are talking about?

24 MR. MATTSON: Yes, if private landowners
25 adjacent means...

1 THE CHAIRMAN: How far away from the area
2 is going to be covered with maximum flooding water do
3 they take an easement? Is that what you want to know?

4 MR. MATTSON: Yes, Mr. Chairman,
5 upstream, downstream.

6 THE CHAIRMAN: All right, someone can
7 answer that, I'm sure.

8 MR. FLOOK: I think the common sense is
9 those areas you are looking for a flooding easement,
10 and you are going to look at those lands that will be
11 flooded or may be flooded.

12 MR. MATTSON: Q. And how far upstream
13 and downstream would this policy apply? You are just
14 looking for where the water actually floods the land,
15 is that what you are saying?

16 MR. FLOOK: A. That's correct.

17 Q. You mentioned private landholders in
18 your response. Do you also get easements from those
19 who live on land adjacent but who don't own it, or just
20 those who own the land?

21 A. I think this whole question is a land
22 ownership question, relating to landownership.

23 THE CHAIRMAN: I don't like to venture a
24 legal opinion, but it would be hard to get an easement
25 from someone who doesn't own the land.

1 MR. MATTSON: Q. Now with respect to the
2 Lake Nipigon shore, and this is by way of example, did
3 Hydro obtain flooding easements from the Lake Nipigon
4 shore property owners, who were affected by the Ogoki
5 Diversion?

6 MR. FLOOK: A. Not for the Ogoki
7 Diversion, because they are downstream of the Ogoki
8 Diversion.

9 Q. So those downstream this policy
10 wouldn't apply to?

11 A. No, because there is no flooding
12 downstream.

13 Q. Then this policy wouldn't apply to, I
14 guess I could have determined this earlier from your
15 answer, it wouldn't apply to water fluctuations, where
16 property would have water fluctuations, correct?

17 A. If it is in the headpond area where
18 it is being flooded, yes.

19 Q. So just in the headpond area where
20 there is water fluctuations, but not downstream?

21 A. You used an example, Lake Nipigon.
22 Of course water fluctuations in Lake Nipigon don't
23 relate to the Ogoki Diversion, so your analogy is not
24 correct.

25 Q. Mr. Flook, at page 1 of the exhibit,

1 when it states, "to flood, overflow and erode the
2 land," just for clarification, and it says, "to raise,
3 lower alter and/or fluctuate the level of the waters,"
4 is that just upstream? Is that correct?

5 A. Maybe I'm missing something, but this
6 whole discussion is about getting easements for
7 flooding, putting water on land, yes.

8 Q. Or for fluctuating the level of
9 water.

10 A. But those terms might be in there,
11 but the sentence, the paragraph before talks about
12 obtaining these flooding rights from areas to be
13 flooded. And the only way you are going to flood is
14 upstream, above the dam.

15 MR. MCCORMICK: A. I might add one point
16 of clarification. There are examples, such as on the
17 Mississauga River where there were some concerns with
18 erosion, where easements were acquired for properties
19 that might be affected by water level fluctuations. In
20 that particular case, Hydro riprapped the shore line,
21 and an easement was required to place that material and
22 maintain it.

23 THE CHAIRMAN: And that was downstream,
24 Mr. McCormick?

25 MR. MCCORMICK: That was downstream.

1 MR. MATTSON: Q. Does Ontario Hydro
2 generally pay Raparians for flooding easements through
3 monetary? Is it a financial payment that they make?

4 MR. FLOOK: A. For what?

5 Q. For flooding easements.

6 A. I couldn't really say. There may be
7 other alternatives. There may be land for land swaps
8 or things like that. So I have no knowledge that
9 specifically every easement is related to money.

10 THE CHAIRMAN: You pay sometimes though,
11 do you?

12 MR. FLOOK: I know that they do pay
13 sometimes, but I have in the back of my mind that there
14 is perhaps other alternatives that may occur. So I
15 don't want to make the generalization that there is
16 payment made each time.

17 MR. MATTSON: Q. Ontario Hydro ask
18 expropriate the Raparian rights, correct?

19 MR. MCCORMICK: A. Subject to the
20 provisions of the Expropriations Act.

21 Q. Do you know if a non-utility
22 generator can similarly expropriate Raparian rights?

23 MR. FLOOK: A. No, I don't know that.

24 Q. If you turn to tab K of the material,
25 that's Exhibit 425, I'd ask you to turn to page 1 of

1 the exhibit. You note that this is the Ministry of
2 Natural Resources review of the Demand/Supply Plan from
3 Exhibit 146. If you turn to page 5 of that excerpt,
4 page 5 of the exhibit, I'm reading the second paragraph
5 down.

6 It states that:

7 The MNR has a policy to assist in the
8 development of the province's remaining
9 hydraulic resources by the private
10 sector. In early 1989 MNR removed
11 Ontario Hydro's first right of refusal
12 for sites with a capacity greater than 20
13 megawatts, but agreed to reserve sites in
14 the Moose River Basin, on the Mattagami,
15 Abitibi and Moose Rivers, as well as the
16 Patten Post on the Mississauga River.
17 All remaining sites throughout the
18 province were made available for
19 development by the private sector where
20 it was determined appropriate.

21 My question is, first of all, was Hydro
22 involved in the negotiations that led to these
23 reservations?

24 MR. SNELSON: A. There was a series of
25 letters between Ontario Hydro and the Ministry of

1 Natural Resources with respect to hydraulic sites that
2 Ontario Hydro had wanted to retain an interest in
3 developing.

4 Q. Do you know, Mr. Snelson, why Hydro
5 would have been granted these reservations in
6 particular?

7 A. I don't know why we were granted the .
8 reservations.

9 Q. Do you know how many years these
10 reservations are good for?

11 A. I don't believe there is a time
12 frame, but I'm not sure there is an absolute
13 reservation.

14 THE CHAIRMAN: Whose waiting on who?

15 Mr. Snelson, are you going to make a
16 further answer to that question?

17 MR. SNELSON: I'm looking at some
18 reference material here, and I haven't found anything
19 that would add to that answer at the moment.

20 MR. MATTSON: Q. So for the time then,
21 we don't know long these reservations are, correct,
22 for?

23 MS. BASU ROY: A. I don't think there is
24 any specific time frame associated with that.

25 Q. With respect to the security of these

1 rights, could the MNR cancel these reservations then to
2 accommodate other users at some time, or is this
3 something that hasn't been discussed?

4 A. That would be within their
5 jurisdiction to do so.

6 Q. If I could have you turn to
7 transcript 91, page 16070 at the top of the page?

8 MR. MATTSON: It's not supplied in our
9 exhibit, Mr. Chairman, because it was yesterday.

10 THE CHAIRMAN: The number, please? 16?

11 MR. MATTSON: 16070.

12 Q. At the top of the page, lines 1 to 7,
13 quickly if I could just read it:

14 "QUESTION: So it sounds like there
15 is no commitment then that these things
16 will be any different next time there
17 could be sites that could be released to
18 the private sector? Is that fair?

19 "ANSWER: I don't believe there is
20 any commitment. There may be some
21 informal understanding, but I don't
22 believe there is a commitment."

23 Mr. Snelson, I believe that was you. So
24 I was just wondering what you mean by an informal
25 understanding with respect to these other sites?

1 MR. SNELSON: A. I was referring to the
2 correspondence that had taken place, and I don't
3 believe these are legally binding understandings, but
4 we have put forward a list of sites that we would like
5 to see, that we say we have an interest in developing.
6 And that was discussed and there was various
7 correspondence that went backwards and forwards.

8 I think we have the understanding that
9 these sites would not be released without some
10 consultation to us, but I don't believe there is any
11 legal obligation for that to happen.

12 Q. Do you think it's fair to say then,
13 if we look at page 5 of the exhibit, where the MNR says
14 that all remaining sites throughout the province are
15 made available for development by private sector, that
16 that's changed now? There is some new understanding
17 that these sites may in fact be reserved for Ontario
18 Hydro?

19 The quote I read was at page 5 of the
20 exhibit, I began reading.

21 MS. BASU ROY: A. We have a further
22 letter that came after that statement from -- there is
23 a June 28, 1989 memo from Mr. Franklin to the
24 Honourable Vincent Kerrio, which indicated that the
25 Moose River Basin restriction that had been announced

1 by MNR would be reviewed and would be cancelled. So
2 the restriction within the Moose River Basin, we were
3 led to believe that that restriction would be removed.

4 Q. That is a restriction that I'm
5 referring to, is it? Maybe we can --

6 A. Well, it says, "All remaining sites
7 throughout the province would be made available for
8 development by the private sector, where it was
9 determined appropriate," and it was our understanding
10 that that restriction would be removed.

11 THE CHAIRMAN: I'm sorry, I don't quite
12 follow you. What restriction do you mean?
13 [2:48 p.m.]

14 MS. BASU ROY: Okay. We had
15 correspondence from the government which effectively
16 restricted Ontario Hydro to the Mattagami, Abitibi and
17 Moose River Basin.

18 THE CHAIRMAN: What do you mean by
19 restricted, that's what I'm trying to get at? You mean
20 you couldn't develop hydraulic power anywhere else
21 except those places?

22 MS. BASU ROY: Well, that they were going
23 to make them explicitly available to the private
24 sector, the sites outside the Moose River basin.

25 THE CHAIRMAN: Did that go so far to say

1 Hydro was not able to develop those?

2 MS. BASU ROY: It didn't say that we
3 weren't going to be -- it just said that:

4 The Ministry of Natural Resources will
5 make the remaining potential
6 hydroelectric sites available to the
7 private sector for development. Most of
8 the larger sites that Ontario Hydro has
9 shown interest in will be released by a
10 call for proposals. It is our intention
11 to release these in close consultation
12 with Ontario Hydro.

13 THE CHAIRMAN: And where is that
14 coming -- what letter is that?

15 MS. BASU ROY: This was in a memo dated
16 April 27th, 1989.

17 THE CHAIRMAN: By who to who?

18 MS. BASU ROY: From the Deputy Minister
19 of Energy, George Tough to Mr. Franklin.

20 MR. MATTSON: Mr. Chairman, maybe that
21 letter and the earlier one referred to from Mr.
22 Franklin, if they could be supplied to us would of some
23 help, assistance in determining exactly what the
24 situation is with respect to the informal
25 understanding.

1 MS. HARVIE: Well, I'm not sure -- I
2 think that the relevant portions of the letter have
3 been read into the record. I'm not sure what the
4 provision of the letter would do.

5 If further clarification is needed, and I
6 sort of expect it is from the puzzled looks around the
7 room, perhaps the witnesses should be asked to explain
8 further.

9 THE CHAIRMAN: Well, I'm a little puzzled
10 because - I may have missed something - but I did not
11 understand that Hydro's future hydraulic development
12 was restricted to the Moose River Basin and the Abitibi
13 and Moose Rivers as well as to Patten Post, outside of
14 that they were not allowed to develop, and that's what
15 I think I'm hearing Ms. Basu Roy say, and that's the
16 first I have heard of that.

17 MS. BASU ROY: Okay. Maybe if I read a
18 little bit further from one of the letters here it
19 might help to clear things up.

20 It is this April 27th, 1989, memo from
21 George --

22 THE CHAIRMAN: Well, reading the memo may
23 not help. I would just like to know your understanding
24 of what the relationship is with respect to these
25 technical potential between you and the Ministry of

1 Natural Resources. What's your understanding of the
2 arrangement?

3 MS. BASU ROY: Well, it's my
4 understanding that sites can be released by MNR to
5 either Ontario Hydro for development or to the private
6 sector, that we don't have any specific rights to sites
7 outside of the Mattagami, Abitibi and Moose River
8 Basin.

9 THE CHAIRMAN: That just means you are on
10 equal footing with private developers; is that your
11 understanding, until such time as MNR formally releases
12 a site to a private developer?

13 MS. BASU ROY: That's correct.

14 THE CHAIRMAN: Is that your
15 understanding?

16 MS. BASU ROY: Yes.

17 THE CHAIRMAN: Whereas before apparently
18 you had some kind of right of first refusal before they
19 released it to a private developer?

20 MR. FLOOK: I was hesitating to answer
21 because I couldn't think of the term. A long time ago
22 there was a -- it was a site reservation and Ontario
23 Hydro had these around the province for particular
24 sites and some time in the 1980s that whole process was
25 cancelled.

1 So then after that time, then Ontario
2 Hydro had no particular rights to any site that was a
3 new site, until this correspondence that took place
4 which then defined some specific sites as identified
5 here.

6 MR. MATTSON: Thank you.

7 Q. Mr. Snelson, in light of the
8 clarification - then back to the transcript - again,
9 it's talking about this continuing interest in specific
10 sites that Ontario Hydro has, and you indicate that
11 there may be some informal understanding, but I don't
12 believe there is a commitment.

13 Is that different, the informal
14 understanding any different than what we have heard
15 about equal footing between Ontario Hydro and the
16 private sector?

17 MR. SNELSON: A. No. I was talking to
18 the general correspondence that has taken place in
19 which a list of sites had been identified, there had
20 been some discussion, and what Ms. Basu Roy has given
21 you is probably the latest position with respect to
22 that. I have nothing to add to that.

23 DR. CONNELL: Mr. Snelson, I would assume
24 that the critical issue for us is your planning range
25 and whether there is some risk that sites which would

1 allow you to meet that planning range might not be
2 available to Hydro in the long run. Can you address
3 that problem?

4 MR. SNELSON: I believe we have the water
5 rights to all the sites that would be left in the
6 attainable potential if you just went through that
7 exclusionary process that we talked about in our direct
8 evidence, except possibly for Patten Post where we have
9 been directed by government to proceed with that
10 project. So I would expect that we will get the rights
11 to that site.

12 Of course, if some of those sites fall by
13 the wayside and the attainable potential is made up by
14 some of the other sites that are in the technical
15 potential, then I don't think there's any assurance at
16 this phase that we have the water rights to those
17 sites, though of course we may be able to obtain them.

18 DR. CONNELL: Is there any way that that
19 matter could be clarified within the boundaries of time
20 set by this hearing?

21 MR. SNELSON: I think we could undertake
22 to inform you if it was anything different to what I
23 have said. I doubt that it would be possible for us to
24 obtain water rights to additional sites during the time
25 period that we're talking about.

1 THE CHAIRMAN: Generally speaking, MNR
2 would release sites to a private person, there is some
3 expectation at least that the sites will be developed;
4 is that right?

5 MR. SNELSON: I understand that generally
6 there is a time period associated with a lease during
7 which they are expected to take some action, but that's
8 not necessarily rigidly applied.

9 THE CHAIRMAN: So it would be too simple
10 to say: Well, there may be -- some of these sites, if
11 they are released, taken out of your range, but they
12 turn up on the other side of the balance sheet as
13 non-utility generation, you wouldn't have any assurance
14 of that, I take it?

15 MR. SNELSON: I think there's several
16 things that could happen in that regard, it isn't a
17 straightforward transfer.

18 If they're taken from our purview and put
19 into the non-utility generation technical potential and
20 developed that way, then they may not be developed for
21 the same amount of megawatts and if the water rights
22 are given to a non-utility generator, then there is
23 always the possibility that that won't proceed.

24 But I think that in that event sooner or
25 later those water rights become available to somebody

1 - who would want to proceed at that site.

2 THE CHAIRMAN: But it wouldn't be
3 attainable potential within the same capacity or time
4 frame as you would have it in your planning range?

5 MR. SNELSON: There's no guarantee of
6 that.

7 MR. MATTSON: Q. Mr. Snelson, just one
8 further point. If you turn to page 13 of the
9 exhibit -- actually turn to page 12 first. No, I'm
10 sorry, just turn to page 13. I thought it was attached
11 to the interrogatory.

12 It's the Ministry of Natural Resources
13 Water Power Programs Guideline, and at the bottom of
14 the page it begins to talk about events which took
15 place and changed the size and scope of water power
16 development.

17 And on page 14, at the top of the page:

18 At the same time, MNR changed its site
19 release policy to increase the level of
20 Ontario Hydro's first right of refusal
21 from 2 megawatts to 20 megawatts. The
22 Ministry of Energy announced that it
23 would fund preliminary engineering
24 studies for any potential developable
25 sites.

1 And that's in 1986; correct?

2 MR. SNELSON: A. That's what it says.

3 Q. All right. And since that time, now
4 there is no right of first refusal; correct, that
5 policy has been changed?

6 A. I believe so, with the possible
7 reservations that Ms. Basu Roy has mentioned in the
8 Moose River Basin.

9 Q. Thank you. Do you know before that
10 policy was changed if Ontario Hydro ever exercised that
11 right of first refusal?

12 A. We don't know that they exercised it.

13 Q. Turn to tab L, that's Exhibit 426
14 and page 2, please. It's an interrogatory from Energy
15 Probe No. 6.2.110.

16 THE REGISTRAR: That is .132.

17 ---EXHIBIT NO. 367.132: Interrogatory No. 6.2.110.

18 MR. MATTSON: Q. And you'll note that
19 the question asked of Hydro in the interrogatory was:

20 The IJC has predicted that Great
21 Lakes water consumption could double by
22 the year 2000. Please provide all
23 documents regarding possible effects
24 of increased water consumption on the
25 amount of water available to Ontario

1 Hydro for use in existing and proposed
2 hydraulic stations. How has Hydro
3 factored increased consumption into
4 forecast?

5 And you note from first paragraph of the
6 response you note that you acknowledge that the
7 increased consumption would mean "that less water is
8 available for hydroelectric generation."

9 And then the second paragraph I'm
10 reading.

11 Hydro has not factored increased
12 consumption into forecast due to the
13 extreme variability of water levels and
14 flows in the Great Lakes Basin and due to
15 the uncertainty in forecasting
16 consumptive use.

17 Has Hydro done any analysis of this
18 issue?

19 MR. WIGLE: A. Not to my knowledge, but
20 I would like to add that the projection of consumptive
21 use is, in my opinion, not large in the whole scheme of
22 things, especially the amount of water in the Great
23 Lakes, the flows in the Niagara River or the St.
24 Lawrence River.

25 In 1980, in the interrogatory here it

1 says the consumptive use ranged from 2,900 cms to 5,600
2 cms and it's projected for year 2000 to go up to 5,700
3 cms to 8,400 cms. That range. So it's not a large
4 increase.

5 Q. And you are basing that upon what you
6 are reading here right now?

7 A. Yes, and I believe those figures are
8 in the International Joint Commission's Report on
9 Diversions in Consumptive Uses.

10 Q. All right. If you could turn to page
11 3 of the exhibit, which is excerpts from the 1985 IJC
12 document, you will note its entitled: Great Lakes
13 Diversions in Consumptive Uses, International Joint
14 Commission, and I would just like to read you the
15 conclusions at page 7 of the Government of Quebec and
16 the Government of Canada.

17 First of all, are you familiar with this
18 document?

19 A. I'm aware of the document, yes. It
20 has been some time since I read it through.

21 Q. All right. If you could look to page
22 7 in the right-hand column, under Bernard Harvie,
23 Government of Quebec, I'll just read one sentence. He
24 says:

25 The forecast increase in consumptive

1 use of Great Lakes water will have grave
2 economic and environmental consequences
3 for the Province of Quebec. Hydro
4 production and shipping will be hit
5 very hard economically.

6 And you'll note further down, the very
7 last paragraph, statement tabled by the Government of
8 Canada reads:

9 The Government of Canada expressed
10 considerable concern regarding possible
11 economic losses to power and navigation
12 interests and any adverse environmental
13 impacts that would result from the
14 Board's projected increase in water
15 consumption.

16 I take it then that you would disagree
17 with those two statements of the severity of water
18 consumptive use increases?

19 MR. WIGLE: A. Not necessarily. Any
20 loss of water from the Great Lakes system will mean
21 less water available for other uses, including power.

22 Q. Well, Mr. Wigle, they seem to
23 indicate that doubling consumptive use may be more of a
24 grave concern than Ontario Hydro may feel; is that
25 correct?

1 A. I don't think Ontario Hydro totally
2 discounts the comments made here. That would impact on
3 generation to the degree that the flows are reduced.

4 Q. But you haven't forecast for that;
5 have you?

6 A. It is difficult to forecast. The
7 accuracy of forecasting river flows, I think the error
8 in forecasting would be greater than the increase we're
9 talking about here in consumptive use; that is, the
10 increase from the 3,000 to 5,000 range, up to the 6,000
11 to 8,000 cms range, that's two or 3,000 between 1980
12 and the year 2000.

13 Q. My final question then, just quite
14 plainly then: For planning purposes, Ontario Hydro
15 then doesn't feel it would be reasonable to forecast at
16 least some increase in consumptive use?

17 A. I think in our planning the thought
18 is there, we know it may take place but, again, when
19 you are forecasting nature's variability, the error in
20 that task is greater than what is being talked about
21 here.

22 Q. Thank you.

23 DR. CONNELL: Can I just clarify a point.
24 Mr. Wigle, the cms is presumably cubic metres per
25 second.

1 MR. WIGLE: Yes.

2 DR. CONNELL: Could you help me interpret
3 that first bullet then,.

4 Consumptive uses as reported by the
5 Commission's Study Board totalled about
6 140 cms in 1975.

7 I'm not sure how you can get a total for
8 a rate.

9 MR. WIGLE: I think this is understood
10 that this is for a year, 140 cubic metres per second
11 flowing for one year, so it's a volume of water.

12 DR. CONNELL: So it's -- right.

13 MR. WIGLE: That's my assumption, I
14 don't...

15 DR. CONNELL: Average rate over the whole
16 year.

17 MR. WIGLE: yes.

18 DR. CONNELL: Yes. Okay, thank you.

19 MR. MATTSON: Q. If you could turn to

20 tab M

21 THE CHAIRMAN: I'm not sure I understand.
22 You say this is not a problem that you're worried about
23 because the predicted variations fall within the margin
24 of error in predicting; is that what you're saying? Is
25 that right?

1 MR. WIGLE: Well, I don't want to leave
2 the impression that we are not concerned about the loss
3 of water out of the system because that will mean less
4 generation, but I interpret the question as: Do we
5 account for this increase in consumption in our
6 forecasts, and I'm saying that when you're looking into
7 the future, if there's a certain variability in the
8 forecast --

9 THE CHAIRMAN: Forecast of what?

10 MR. WIGLE: Forecast of what the flows
11 might be.

12 THE CHAIRMAN: All right.

13 MR. WIGLE: If it's going to be a wet
14 period or a dry period, whether the flows are going to
15 be high or whether the flows will be low.

16 THE CHAIRMAN: But the IJC seems to be
17 predicting a significant change which caused these - at
18 least as reported here - concerns to both the
19 Government of Canada and the Government of Quebec with
20 respect to the availability of hydraulic power, and you
21 don't share those concerns, I take it?

22 MR. WIGLE: The increases perhaps are
23 significant when you compare one year, say 1980 to the
24 year 2000; let's say the 3,000 up to 8,000, but when
25 you put that in perspective with the total riverflow,

1 say, the Niagara River flow which has a long-term
2 average of 204,000 or the St. Lawrence River which has
3 a long-term average of 240,000, it's not a great deal.
4 [3:08 p.m.]

5 But still it would mean less power
6 production. So we are concerned from that point.

7 THE CHAIRMAN: I guess what I'm having
8 difficulty understanding is the extent of your concern.

9 MR. WIGLE: I'm not quite sure how to
10 answer that.

11 MR. MATTSON: Q. But it's true, Mr.
12 Wigle, you have no reports of studies on this issue,
13 Ontario Hydro hasn't, other than what your opinion
14 today by viewing it, Ontario Hydro hasn't done any
15 other analysis, have they?

16 MR. WIGLE: A. Not to my knowledge.

17 Q. Thank you.

18 THE CHAIRMAN: Do you happen to know
19 whether Ontario Hydro or the Ontario government
20 participated in the public meetings that were held in
21 1983, in which the Government of Quebec and the
22 Government of Ontario expressed views?

23 MR. WIGLE: I'm not sure of those
24 particular meetings. I know Ontario Hydro participated
25 in this process at some time.

1 THE CHAIRMAN: Can you tell me what views
2 they expressed in general terms?

3 MR. WIGLE: The views of Ontario Hydro's
4 participants?

5 THE CHAIRMAN: Yes.

6 MR. WIGLE: These people have retired,
7 and I was not there, so at this time I can't say.

8 THE CHAIRMAN: All right.

9 MR. MATTSON: Thank you.

10 Q. If you could turn to tab M please,
11 which is Exhibit 427, and at page 1. It is a document,
12 a draft document entitled "Fisheries Branch Review of
13 the MNR Water Power Program," September 1990, prepared
14 by C.A. Hexel at fisheries branch. Are you familiar
15 with this document? Is anybody familiar with this
16 document?

17 MR. MCCORMICK: A. I have seen a draft
18 of this report. I'm not sure that it is the same
19 draft. I am not aware that a final report was ever
20 prepared. In fact I suspect that one wasn't.

21 Q. All right, and Mr. McCormick, if you
22 could turn to page 5, please, of the exhibit, in the
23 middle of the page it starts with "Of some 270..." Do
24 you see that?

25 A. Yes.

1 Q. I'd like to read that.

2 Of some 270 or so Hydro facilities
3 already in place across Ontario, at least
4 70 have been described within MNR's
5 operating in a manner that does not
6 conform to the habitat sections of the
7 Fisheries Act of Canada. The operation
8 of two, Alexander GS, Nipigon River,
9 Little Long GS, Mattagami River is a
10 matter of public issue. Others represent
11 sources of potential embarrassment to
12 both MNR and Ontario Hydro.

13 I was wondering of the 70 identified
14 there that operate in a manner that does not conform to
15 the habitat sections of the Fisheries Act are operated
16 by Ontario Hydro? Do you know that?

17 A. No, I don't.

18 Q. The Alexander Generating Station is
19 an Ontario Hydro station though, correct?

20 A. That's correct.

21 Q. And why is the operation of the
22 Alexander Generating Station a matter of public issue?

23 A. A few years ago, I think Mr. Wigle
24 can respond to this better than myself, but there was a
25 slumpage of the banks on the Nipigon River that

1 resulted in a number of factors. Ontario Hydro was
2 identified as a source of part of the problem, and
3 studies were undertaken subsequent to that, and I
4 believe are still underway, to fully evaluate this
5 issue.

6 Q. So the studies are still being
7 undertaken, and to date then there has been nothing
8 done to alleviate the problem?

9 A. Ontario Hydro has modified the
10 operations of our station, and in accordance with
11 Ministry of Natural Resources requirements, until a
12 satisfactory solution has been found.

13 Q. But with respect to the damage that
14 was done, has Ontario Hydro done anything to alleviate
15 that or address that issue?

16 A. I think that's part of the overall
17 exercise.

18 Q. And the second one was the Little
19 Long Generating Station. That's also an Ontario Hydro
20 station, correct?

21 A. That's correct. The concern there
22 related to a control structure, not the generating
23 station.

24 Q. And what was the problem?

25 A. The problem was passage of a number

1 of sturgeon through the control structure, into what is
2 known as the Adam Creek Diversion.

3 Ontario Hydro, in co-operation with the
4 Ministry of Natural Resources, collected and relocated
5 those sturgeon back into the headpond.

6 In addition, Ontario Hydro has been
7 undertaking studies to fully understand the reasons for
8 the occurrence and will, through those studies,
9 determine what future actions are required to prevent
10 its reoccurrence.

11 Q. So the studies are ongoing still?

12 A. Yes.

13 Q. And maybe you can tell me about the
14 stations that represent the sources of potential
15 embarrassment to Hydro and why.

16 A. This is the opinion of the author.
17 It is not shared by Ontario Hydro. I can't really
18 speak to that.

19 Q. So you wouldn't know to what he was
20 referring?

21 A. My recollection doesn't go back that
22 far.

23 Q. Mr. Wigle, would you?

24 MR. WIGLE: A. No, I was just going to
25 add that to my knowledge there has been no

1 communication on this matter between MNR and Ontario
2 Hydro, and this was dated September '90. So there's
3 been no communication to my knowledge.

4 Q. Mr. McCormick, this paper was just
5 done a year-and-a-half ago, and you did say that you
6 had read it, and it does sound quite serious when they
7 say potential embarrassment to Ontario Hydro.

8 You say your recollection doesn't go back
9 that far. Is there any way that you might be able to
10 refresh your memory and indicate to me where these
11 potential embarrassments may be?

12 MS. HARVIE: Mr. Chairman, if I may
13 suggest that this sort of a question be put to the
14 government? The witnesses have indicated that they
15 don't know specifically which stations are potential
16 embarrassment to MNR and allegedly to Ontario Hydro,
17 and I don't know that we can offer anything further
18 about this. It's their document, it's their opinion,
19 let them answer it.

20 MR. MATTSON: I have no submissions, Mr.
21 Chairman.

22 Q. Just a short question. I hope it's
23 not an inconvenience, if you could just turn back to
24 tab G for a moment. This is .19, was the inquiry on
25 federal water policy.

1 If you turn to page 13, at the bottom of
2 the page, second last sentence, it reads:

3 Ontario Hydro is concerned that recent
4 federal water related policy initiatives
5 may unnecessarily restrict future
6 hydroelectric developments. The
7 principle of no net loss contained in the
8 Department of Fisheries and Oceans draft
9 fish habitat policy does not give
10 adequate recognition to competing water
11 resource uses.

12 Now this was in 1984, and my first
13 question is, is this -- or my only question really. Is
14 this still Ontario Hydro's policy today, that the
15 Department of Fisheries and Oceans no net loss policy
16 does not give adequate recognition to competing water
17 resource uses?

18 MS. HARVIE: Mr. Chairman, I again must
19 rise to my feet. I have no idea how this is relevant
20 to the characteristics of the hydroelectric option,
21 whether or not we agree or disagree with the federal
22 policy on no net loss.

23 THE CHAIRMAN: But this is Hydro's own
24 submission, isn't it? This is Hydro's own opinion.

25 MR. MATTSON: Yes, it is, Mr. Chairman.

1 THE CHAIRMAN: It is not somebody else's,
2 and I think that if Mr. Mattson wants to get a better
3 understanding of what they are talking about, I think
4 that's a fair area to discuss.

5 MR. McCORMICK: We respect this policy
6 and have attempted to abide by it in our site-specific
7 environmental assessments.

8 MR. MATTSON: Q. But are you still
9 opposed to it?

10 MR. McCORMICK: A. I'm not aware of any
11 opposition.

12 Q. Well, just the opposition back in
13 1984, your submissions made, I take it there was some
14 opposition to it. Would you agree with me there?

15 A. I think I would take it as an
16 expression of concern at that time, at a time when
17 perhaps -- when the information on how the Department
18 of Fisheries and Oceans intended to apply that policy,
19 and what it fully meant to Ontario Hydro, and in fact
20 what we're finding today is that the policy
21 implementation still is the subject of negotiation and
22 full delineation of what in fact is required to satisfy
23 it.

24 Q. So this is still an issue that is of
25 importance to Ontario Hydro, I take it?

1 A. Well, I said that we would respect
2 the policy.

3 THE CHAIRMAN: Perhaps you can explain to
4 me what your understanding of the no net loss means?

5 MR. MCCORMICK: The policy, I think in
6 this context, refers to the protection of fish habitat.
7 In other words projects should not proceed where there
8 would be a net loss of aquatic fish habitat.

9 What is done as a result, if there are
10 losses projected as a result of certain aspects of the
11 project, that habitat may be enhanced in other
12 locations or created, in fact, such that the net result
13 of the project is that there is no loss in habitat.

14 THE CHAIRMAN: And I think you said you
15 respected that policy, but do you consider that that
16 policy restricts future hydroelectric development as a
17 site here?

18 MR. MCCORMICK: It is a site-specific
19 consideration, but generally speaking, no.

20 THE CHAIRMAN: So does that mean that the
21 concern expressed in 1984 is no longer a concern, or
22 what does it mean?

23 MR. MCCORMICK: Not being part of the
24 preparation of the original document, I can only
25 speculate at what the nature of the original concern

1 is. My speculation...

2 THE CHAIRMAN: I'm sorry, I thought you
3 said to Mr. Mattson you understood the concern, that
4 you respected it. I thought that's what you said. I
5 may be wrong.

6 MR. MCCORMICK: I said I respected the
7 policy. Ontario Hydro will endeavour to satisfy the
8 policy in future projects.

9 THE CHAIRMAN: My question is a simple
10 one. Is it still a concern to Ontario Hydro today, as
11 it apparently was in 1984?

12 MR. MCCORMICK: I don't believe so.

13 THE CHAIRMAN: So if it's not a concern,
14 then that meant -- I can take that it's not a concern,
15 is that right? Is that what you're saying?

16 MR. MCCORMICK: I'm reluctant to give a
17 sort of blanket no, because it is a site specific
18 consideration, but I think on a general level I would
19 say no.

20 MR. MATTSON: Q. Can I ask then, Mr.
21 McCormick, what the negotiations that are ongoing are
22 attempting to accomplish then with the federal
23 government? You commented that negotiations are
24 ongoing.

25 MR. MCCORMICK: Well, during the course

1 of each environmental assessment, one will now attempt
2 to quantify losses, if any, and determine measures to,
3 as I said, improve habitat or create new habitat such
4 that there would not be a net loss. So it's just then
5 a question on a site-specific level of determining what
6 has to be done to achieve the no net loss policy.

7 Q. So arriving at a fair definition of
8 what no net loss means?

9 A. There are problems in quantifying
10 habitat and what adequate levels of compensation are.
11 Habitat in one area isn't necessarily clearly equal to
12 habitat in another area, so this is a matter for
13 fisheries biologists.

14 MS. PATTERSON: So you are not doing any
15 general negotiations then with respect to the
16 application?

17 MR. MCCORMICK: No.

18 MR. MATTSON: Thank you.

19 Tab N, please. And that's Exhibit No.
20 428. If you could turn to page 3 of the exhibit, it's
21 an interrogatory from Energy Probe, No. 6.2.149.

22 THE REGISTRAR: That's .133.

23 ---EXHIBIT NO. 367.133: Interrogatory No. 6.2.149.

24 MR. MATTSON: Q. We have supplied
25 excerpts from that interrogatory response. It's

1 entitled "Planning For Hydroelectric Generation, A
2 Discussion Paper, The Moose River Basin." Are you
3 familiar with this document?

4 MR. McCORMICK: A. Yes.

5 Q. If you would look to page 13 under
6 the title "Royal Commission on Northern Environment,"
7 and these are Ontario Hydro's comments on the Royal
8 Commission on Northern Environment's 1985
9 recommendations. You'll note three bullets down, it
10 starts with:

11 Tourism should be the priority
12 commercial activity in Ontario north of
13 50 degrees (could create conflicts with
14 other resource uses such as HGD)
15 Hydroelectric, I believe, generation
16 development.

17 Can you explain what conflicts Hydro was
18 referring to in this context? Maybe I can be more
19 specific. Would you have been referring to only parks,
20 or would its concerns have been broader than just
21 parks?

22 A. I think the reference is very broad,
23 certainly more than parks. It may be relating to
24 wilderness-type recreational activities versus
25 hydroelectric development.

1 Q. Would you agree, Mr. McCormick, that
2 all your existing stations are north of 50 degrees,
3 except for Patten Post, Niagara and that -- oh, all the
4 proposed, all the ones that haven't been taken out of
5 your attainable potential are north of 50 degrees,
6 except for your Patten Post and a number of others, two
7 others, I believe?

8 A. Patten Post, Lake Gibson and Big
9 Chute, I believe it is.

10 Q. Thanks.

11 A. And Niagara.

12 Q. And Niagara, okay.

13 You'll note just below that bullet in
14 these Royal Commission on the Northern Environment
15 states:

16 Ontario Hydro recently evaluated these
17 recommendations in detail and responded
18 directly to the Ontario government.
19 Now if you look to page 23 of the
20 exhibit, it's an Energy Probe interrogatory, 6.2.257.

21 THE REGISTRAR: That's .134.

22 ---EXHIBIT NO. 367.134: Interrogatory No. 6.2.257.

23 MR. MATTSON: Q. We asked for that
24 detailed evaluation, and your response was that no
25 detailed evaluation has been done. I was wondering if

1 you could explain what seems to be a contradiction, in
2 that you are saying here that you have done an
3 evaluation of the recommendations, and yet you tell us
4 that none have been done.

5 MR. MCCORMICK: A. To the best of my
6 knowledge, the authors of the discussion paper were in
7 error.

8 Q. Were?

9 A. Made a mistake.

10 THE CHAIRMAN: You mean the 19 in the
11 statement, page 19 is not correct?

12 MR. MCCORMICK: That's our understanding,
13 yes.

14 MR. MATTSON: Sorry, Mr. Chairman.

15 Q. The interrogatory is not correct, or
16 the page 13 -- oh, I see, page 13 of the exhibit.

17 MR. MCCORMICK: A. Yes.

18 Q. If you turn to page 17, please, of
19 the exhibit, and halfway through the page you'll note
20 it is RCNE, the Royal Commission on Northern
21 Environment. It states that:

22 Ontario Hydro should be involved in
23 any discussions or actions relating to
24 recommendation of the RCNE, which could
25 affect Ontario Hydro's hydroelectric

1 operations or planning.

2 And my question is, has there been any
3 involvement by Ontario Hydro in these subsequent
4 discussions spoken of, and if so, what has Hydro's
5 position been?

6 A. Mr. Wigle can perhaps talk to
7 operations. I'm not aware of any discussions that have
8 taken place in regard to planning.

9 MR. WIGLE: A. I'm not aware of any,
10 either.

11 Q. Can you comment on how this
12 recommendation might affect Hydro's attainable
13 potential at the Demand/Supply Plan hearing?

14 THE CHAIRMAN: I'm sorry, I'm a little
15 bit lost. What recommendations are you talking about?

16 MR. MATTSON: Sorry, the recommendation
17 at page 13 that tourism should be the priority
18 commercial activity in Ontario north of 50 degrees.
19 [3:30 p.m.]

20 THE CHAIRMAN: All right.

21 MS. PATTERSON: Does anybody know what's
22 happening to these recommendations in the Royal
23 Commission on the Northern Environment as opposed to --
24 they were recommendations and you are asking Hydro to
25 comment on them, but were they ever implemented, were

1 they ever adopted by the government?

2 MR. MATTSON: I'm not sure. Maybe I
3 could ask that of Ontario Hydro.

4 MR. MCCORMICK: We have no knowledge of
5 that.

6 MR. MATTSON: Q. Do you know the status
7 of the report?

8 MR. MCCORMICK: A. No.

9 Q. And then my first question is: You
10 don't know then how this might affect your attainable
11 potential if it was, in fact, implemented?

12 A. I guess the answer is no. I think
13 our expectation is that due to the plan assessment work
14 that was suspended, this particular issue would be
15 evaluated and determined whether tourism indeed should
16 receive any form of priority.

17 I think that is a matter of perhaps some
18 disagreement, some controversy in any case, and that
19 issue would then be addressed by those affected by the
20 proposed developments as well as all the government
21 agencies who have an interest in it.

22 Q. Turn to page 24 of the exhibit,
23 please. You note that it's excerpts from the Ontario
24 Hydro report entitled: Little Jackfish River,
25 Hydroelectric Project, Community Inventories, June,

1 1988. And this was attached as an interrogatory
2 response to 6.10.3.

3 THE REGISTRAR: That will be 135.

4 MS. QUINN: Mr. Chairman, it already is
5 an exhibit, if that's any help, it's 367.105.

6 THE CHAIRMAN: 105.

7 MS. QUINN: Yes.

8 THE REGISTRAR: That is correct.

9 THE CHAIRMAN: Thank you, Ms. Quinn.

10 MR. MATTSON: Q. Thank you. I take it
11 you are familiar with this document?

12 MS. QUINN: A. Yes.

13 Q. And just very quickly, before I get
14 to my questions, I would like to review some of the --
15 there are several communities reported here and their
16 concerns about effects of low and fluctuating water
17 levels on tourism.

18 And page 27 of the exhibit you see the
19 comments of the Community of Nipigon, third paragraph
20 down:

21 There is concern that low water
22 levels in Lake Helen and Lake Nipigon are
23 discouraging American tourists from
24 returning to the area. Appeals for
25 alleviating the situation have been made

1 by the Chamber of Commerce to the
2 Ontario Government and Ontario Hydro.
3 And then at page 29, the Community of
4 Macdiarmid, again you'll notice under current issues -
5 I won't read it into the record - but again their
6 concerns with respect to tourism being caused by
7 Ontario Hydro's dams in the Nipigon River.

8 Page 33, Community of Beardmore, second
9 last paragraph, their concerns settle on water levels,
10 fish harvest quotas and general management of the lake
11 as they relate to tourism and fishing.

12 Finally on page 35 of the exhibit, the
13 Community of Red Rock, at the bottom of the page, and
14 the first sentence there is:

15 Concern over low water level of Lake
16 Nipigon and the effects that this has on
17 recreation and tourism.

18 I would like to ask you if you could
19 describe how Ontario Hydro's Nipigon River operations
20 cause fluctuating and low water levels that may affect
21 tourism that these communities seem to be speaking of?

22 MR. WIGLE: A. The groups and
23 communities that you mentioned, some of them are
24 upstream on Lake Nipigon and others are downstream.

25 When there is a drought in the area, that

1 is the amount of rainfall has been very low, there is
2 great difficulty to satisfy both upstream and
3 downstream people at the same time.

4 If you let water out of the lake with
5 which to generate power this will satisfy downstream
6 people, give them adequate levels, but it does lower
7 the upstream lake, and they're not satisfied.

8 If you hold the water back in Lake
9 Nipigon, then the downstream people are dissatisfied.
10 It's very difficult to satisfy both these groups at the
11 same time during a drought.

12 I don't believe our operations during
13 normal years, to my understanding, impact on these
14 groups you mentioned. We do have minimum flows on the
15 river to satisfy the Lake Helen interests, and I'm not
16 sure you mentioned the Town of Nipigon which is
17 downstream of Lake Nipigon, but we are in communication
18 with them and we have a working relationship.

19 Q. Do you know if these levels fluctuate
20 daily, weekly, seasonally?

21 A. The lake would not fluctuate very
22 much on a daily basis, not at all, it would be
23 seasonal.

24 Downstream, Lake Helen can fluctuate on a
25 daily basis, but the minimum level for Lake Helen on

1 any day is limited and we maintain operations to hold
2 that minimum level and, to our understanding, this
3 minimum level is satisfactory to the local residents.

4 Q. Mr. Wigle, would you turn to page 39,
5 it's Exhibit 333 -- Ontario Hydro's 333, and an excerpt
6 follows. It's Materials Relating to Environmental and
7 Health Effects of Hydroelectric Development, and I just
8 note on page 40, beginning with water level
9 fluctuations, you note there:

10 The potential to cause environmental
11 effects..., and you describe some of the
12 possible effects of water level fluctuations, and then
13 the next couple of paragraphs -- or it asked you and
14 you then identify in the next couple of paragraphs some
15 of the effects that could take place.

16 Would it be too much to ask you here if
17 you could just point out some of the environmental
18 effects caused by your operation on the Nipigon?

19 A. I think I can respond to some of the
20 good things that we do on the river such as satisfying
21 the downstream interests, as I've mentioned, and
22 regulation of the lake upstream certainly - as in my
23 direct evidence - it keeps the maximum levels that
24 would occur under nature less than that and the
25 minimums are held up.

1 So that nothing obvious comes to my mind
2 as far as negative impacts.

3 Q. All right. But the communities that
4 we've reviewed and their complaints, do they appear
5 here? Do you know what the people are talking about
6 when they talk about what the fluctuations of the
7 Nipigon has done to their communities?

8 A. This page 40 I have not seen before,
9 so I'm not --

10 Q. All right.

11 A. I haven't read it thoroughly.

12 MS. QUINN: A. Maybe I can help a
13 little. The section on page 40 you're referring to is
14 a generic description of the types of concerns
15 associated with water level fluctuations and they may
16 not be related specifically to the particular groups
17 you're speaking of.

18 Q. No, I understand that, I was just
19 wondering if you could identify any of the effects that
20 you note are caused by water level fluctuations and
21 that have affected these communities.

22 MR. FLOOK: A. I think, if I may--

23 Q. Sure.

24 A. --I can give you a little help there.
25 Of course you have to remember that Lake Nipigon is a

1 very large lake, basically the largest lake in Ontario
2 other than the Great Lakes so, therefore, water level
3 fluctuations on a daily, weekly basis are not
4 observable, the difference because of wind action is
5 much greater.

6 The second thing is to be very cautious
7 about taking the words here about peoples' concerns
8 because those are the concerns at that particular time
9 and four years earlier they're complaining about high
10 water levels, and so it's the issue at the time that's
11 being recorded.

12 With respect to effects, you're only
13 looking at two areas, really access for docks for
14 commercial fisheries, in and out, and the other was on
15 the years of high water levels and when the winds are
16 from the west to the east, for cottage owners there, of
17 course, is water running up on the shores and erosion
18 of the cottage frontage.

19 Q. So when those communities say it's
20 Hydro's operations that affect tourism in the area, you
21 would disagree with that then?

22 A. In general, yes.

23 Q. Thank you.

24 MR. MATTSON: Mr. Chairman, maybe we
25 should take a 15-minute break and we can come back and

1 finish after that. I expect to be possibly half an
2 hour to 45 minutes.

3 THE CHAIRMAN: All right, thank you. We
4 will adjourn for 15 minutes.

5 THE REGISTRAR: This hearing will recess
6 for 15 minutes.

7 ---Recess at 3:40 p.m.

8 ---On resuming at 3:58 p.m.

9 THE REGISTRAR: Please come to order.
10 This hearing is again in session. Be seated, please.

11 THE CHAIRMAN: In the case I forget, we
12 are adjourning at the end of the day until next Monday
13 morning, at nine o'clock on Monday morning, which I
14 think is the 16th of December.

15 There will be a scoping session for Panel
16 7 at nine o'clock and then we will continue with the
17 testimony when that scoping session is finished.

18 Mr. Mattson.

19 MR. MATTSON: Thank you, Mr. Chairman.

20 Q. Now, this panel has already discussed
21 several aspects of the Provincial Parks Policy, and we
22 won't go over the same ground, but I do just have a
23 couple of quick questions.

24 It's safe to say that in terms of the
25 hydroelectric facilities outside of park boundaries, I

1 believe it was said at Exhibit 4 that stations whose
2 reservoirs would flood parklands will be prohibited;
3 correct?

4 MS. BASU ROY: A. The Parks Policy
5 prohibits the development of hydroelectric potential
6 within the parks boundaries.

7 Q. Okay. If I could have you go to page
8 41 of the exhibit. We're at the same exhibit we were
9 earlier, that's tab N, Exhibit 428, and it's in the
10 last column, second paragraph down:

11 Present government policies relating
12 to hydraulic development could affect
13 future developments of this renewable
14 resource. Newly approved Provincial
15 Parks policies prohibits the development
16 of hydraulic generation facilities,
17 including flooding from reservoirs,
18 within approved park boundaries.

19 So it would also apply to that as well;
20 would it not, Ms. Basu Roy?

21 A. I believe any flooding that would
22 occur within provincial parkland from a development
23 outside the park boundaries is something that would be
24 reviewed and would be considered separately on its own
25 site specificity.

1 Q. So this statement here from Exhibit 4
2 is in doubt then?

3 A. Well, Mr. Flook maybe could add to
4 that.

5 MR. FLOOK: A. I think you get into the
6 very subtlety that the water in the reservoir isn't
7 flat, the water does have to slope to go downhill, so
8 at the upper end of the reservoir there is some
9 variation in elevation and the full implications of
10 what that is would have to be looked at. I don't think
11 you would want to generalize.

12 Q. Well, about those hydroelectric
13 facilities outside of park boundaries that would affect
14 parklands in other situations, and let me give you two
15 examples: One that would cause water levels to
16 fluctuate in the park, or one that would adversely
17 affect water quality in provincial parks; would they be
18 prohibited or is this still something you're looking at
19 with MNR?

20 A. Right now nobody is looking at it
21 because none of the developable potential has that
22 circumstance surrounding it.

23 Q. But with respect to the policy itself
24 at page 41, are you still working on that policy,
25 finding some sort of agreement as to what the

1 definition means?

2 A. I guess you could say we're working
3 on it. I don't think there's active discussions going
4 on.

5 Q. Mr. Flook, could the Little Jackfish
6 stations affect the water quality in the Lake Nipigon
7 region?

8 A. I'll let Mr. McCormick...

9 MR. MCCORMICK: A. This matter is dealt
10 with at length in the Little Jackfish Environmental
11 Assessment.

12 Our predictions of water quality covers a
13 wide range of parameters. It would cover matters such
14 as small increases in water temperature in the river
15 which probably wouldn't affect Lake Nipigon.

16 MR. HARRIS: A. Mercury would be another
17 issue associated with the Little Jackfish project and
18 Ombabika Bay, which is at the north end of Lake
19 Nipigon, Ontario Hydro does not expect if that project
20 goes ahead that there will be a significant impact on
21 the fisheries in Ombabika Bay and I would think even
22 less of an impact in the lake as a whole, not a
23 significant impact in Lake Nipigon proper.

24 MR. MCCORMICK: A. I think that the
25 final conclusion with respect to all the water quality

1 parameters is that there is no significant effects.

2 Q. All right. Just back to Exhibit 41
3 again and that statement that I read on the record:

4 Newly approved Provincial Parks
5 policies prohibit the development of
6 hydraulic generation facilities,
7 including flooding from reservoirs,
8 within park boundaries.

9 Besides what I've heard in evidence now
10 that may in some way affect that, is there anything
11 that you filed in evidence, any letters or anything
12 that gave Ontario Hydro the impression that that, in
13 fact, isn't the proper definition of the Provincial
14 Parks Policy?

15 MS. BASU ROY: A. I'm having, I guess, a
16 little bit of trouble with the wording here because my
17 understanding was that the Parks Policy prohibited
18 hydroelectric development within parkland boundaries,
19 and I'm not specifically aware of any further
20 statements.

21 Q. Now, this is Ontario Hydro's
22 document; correct, so if there's any difficulty with
23 the wording it would be how Ontario Hydro worded it;
24 correct?

25 A. Well, the wording here may be correct

1 it was not just my personal understanding.

2 Q. Okay. We will move on to another
3 topic. You don't have the transcript reference in the
4 exhibits, it's Transcript 89, page 15698, lines 18 and
5 following.

6 And, Ms. Basu Roy, I'm reading a
7 response:

8 At various times I guess Ontario Hydro
9 has been asked to comment on management
10 parkland plans that have been put out
11 by the provincial government and there
12 was -- in particular, there was one on
13 the Missinaibi that Ontario Hydro had an
14 opportunity to comment on, but it did not
15 give us the opportunity to comment on the
16 fact that there would be no hydroelectric
17 development allowed within the parkland.

18 And if you could turn to page 48 of our
19 exhibit, it's an interrogatory from Energy Probe No.
20 6.2.258.

21 THE REGISTRAR: That's .135.

22 ---EXHIBIT NO. 367.135: Interrogatory No. 6.2.258.

23 MR. MATTSON: Q. And at page 49 as an
24 attachment is a letter from R. A. Riley from the
25 Ministry of Natural Resources to Hydro's R. A. Brown,

1 February 10th, 1987.

2 And if you turn to page 50, the second
3 page of that letter, near the top of the page
4 beginning:

5 Therefore, we would prefer to see a
6 statement in the document that periodic
7 land use reviews will be carried out for
8 say five or ten-year intervals to
9 re-evaluate the needs and priorities for
10 recreational and hydroelectric resource
11 use in the Moose River basin.

12 And I was wondering, how does this -- oh,
13 yes, if I can just continue on directly reading that
14 quote:

15 [4:07 p.m.]

16 "We would not like to see the door to
17 possible future hydroelectric development
18 on these two rivers closed forever. And
19 we support statements by your J.
20 McCormick that establishment of the
21 Missinaibi Provincial Park would not
22 preclude later deregulation of the park
23 to allow for power production."

24 In light of your evidence yesterday, I
25 was wondering if this has now been -- Hydro's position

1 has now changed from this time?

2 MS. BASU ROY: A. We took the
3 opportunity in this particular memo to express our
4 views concerning the development of some potential on
5 the Missinaibi and the Moose River, but we understood
6 later that it was made quite clear to us that the
7 exclusion of hydroelectric development within the
8 provincial park land was something that was not open
9 for discussion.

10 Q. So you were not successful then in
11 having periodic reviews of the status of provincial
12 parks?

13 A. That's correct.

14 Q. For planning purposes then, does
15 Ontario Hydro assume the designation is permanent?

16 A. Is absolute, yes.

17 Q. The difference between absolute and
18 permanent, I believe there has been that distinction
19 made, is it permanent within the terms used at this
20 hearing?

21 A. For planning purposes, we have
22 excluded any potential within designated park land,
23 provincial park land--

24 Q. Permanent?

25 A. --for planning purposes, for arriving

1 at the attainable potential.

2 Q. Now if you could turn to page 19 of
3 the exhibit, this is a document again that forms the
4 appendix to the Moose River discussion paper. Are you
5 familiar with this discussion? Anybody on the panel
6 familiar with this?

7 MS. QUINN: A. Could you please just
8 clarify where you are? Are you behind tab N, page 19?

9 Q. Yes. Are you familiar with that?

10 MR. MCCORMICK: A. Yes.

11 Q. Could you turn to page 21 please of
12 the exhibit? And near the bottom of the page, and I'm
13 reading:

14 "In addition to provincial
15 initiatives, the federal government,
16 through Parks Canada, has initiated
17 studies aimed at establishing a Canadian
18 Heritage Rivers System that will
19 designate nationally significant
20 environments in which rivers unaltered by
21 man are the predominant features."
22 Near the bottom it sets the note:

23 "The following Ontario rivers have
24 been surveyed and are being considered
25 for inclusion in the CHRS: the Albany,

1 Attawapiskat, Moose/Missinaibi, and
2 Severn/Fawn Rivers. "

3 I may have skipped reading into the record, it was the
4 Moose/Missinaibi.

5 Now does Ontario Hydro know what the
6 status of that consideration is?

7 A. No.

8 Q. Have you done any analysis at all on
9 how the Moose River's designation as a heritage river
10 would affect Hydro's plans for say residence on the
11 Renison?

12 A. I believe the reference is not to the
13 entire Moose but to the Missinaibi. That is a
14 provincial waterway park.

15 Q. So then it wouldn't affect the
16 Renison?

17 A. Not this federal heritage parks
18 designation, no. Not to our knowledge.

19 Q. So looking at that statement that
20 I've read, you see the Moose, that you wouldn't read
21 that to mean that they have an intention of including
22 Moose as a park?

23 A. It's not our understanding.

24 Q. All right.

25 Turn to page 12 of the exhibit. I'm

1 reading from the third paragraph down:

2 "A total of ten existing and twenty
3 proposed Ontario parks, including
4 wilderness, waterway, natural
5 environment, natural reserve and
6 recreation class parks exist in the Moose
7 River Basin, figure 9. Six of the
8 proposed parks occur on the stretch of
9 the Abitibi River, which has potential
10 for four new hydroelectric developments
11 and extensions. "

12 If I just stop there, and if you look one
13 page before page 12 at page 11, you'll see there is the
14 map referred to as figure 9. You'll note the six
15 circles above Fraserdale. Do you see that, Mr.
16 McCormick?

17 A. Yes.

18 Q. Are those the six circles on the
19 Abitibi River north of Fraserdale the parks refer to?

20 A. I believe so, yes.

21 Q. And which are the four developments
22 Hydro said would be affected by these parks?

23 A. I believe it's the Abitibi Complex,
24 which is Otter Rapids, Abitibi Canyon, and Nine Mile
25 and Black Smith Rapids.

1 Q. And how would the designation of any
2 or all of these parks affect Hydro's plans for the
3 Abitibi River?

4 MR. FLOOK: A. It gives the layout
5 designer a little bit more challenge to work around as
6 a site of the -- the Black Smith site was moved
7 upstream by a mile or so to avoid such a park.

8 Q. Wouldn't that increase the cost, Mr.
9 Flook?

10 A. No, it just -- you put it somewhere
11 else.

12 Q. No matter where they put it, might
13 not they be affected by water fluctuations, water
14 quality or possibly flooding?

15 A. Of course you've got to remember
16 these parks are not a large area. They are very
17 specific for a natural -- I'm trying to think of the
18 terminology. They are...

19 MR. MCCORMICK: A. It is a nature
20 reserve.

21 MR. FLOOK: A. They are a nature
22 reserve, which is to identify, in those cases, that
23 particular rock formation, which may be partway up a
24 bank or at the top of a bank or on the top of an
25 island, and they are very specific. And they are maybe

1 100 metres by 100 metres, a very specific size.
2 Therefore they get very site specific, and you can do
3 layouts.

4 In the case of Williams Island water
5 fluctuation wouldn't affect it, but it is certainly
6 visible, and you can carry out things that will protect
7 the island.

8 Q. Do you know what the status of these
9 parks are, or each park that they've identified?

10 A. I don't know the legal status. There
11 has been a definition of them and some documentation
12 published by the Ministry of Natural Resources. Their
13 exact legal situation, I do not know.

14 Q. Thank you. Finally I'd ask you to
15 turn to tab O, which is Exhibit 429, page 1. It is an
16 interrogatory from Energy Probe, No. 6.2.57.

17 THE REGISTRAR: .136.

18 ---EXHIBIT NO. 367.136: Interrogatory No. 6.2.57.

19 MR. MATTSON: Q. If you could turn to
20 page 2...

21 MS. HARVIE: I'm sorry, I guess you're
22 relying on the letter. It has been brought to my
23 attention, though, that this was attached by mistake to
24 this interrogatory, and a revised answer has been
25 provided, which we've sent it to you on October the

1 21st.

2 The question deals with Little Jackfish's
3 affects on tourism, and the answer does not respond to
4 the question. Energy Probe wrote to us and --

5 THE CHAIRMAN: Is that your concern about
6 this letter? This particular letter, are you going
7 to...

8 MR. MATTSON: No, the letter came by
9 mistake. It was the letter actually that we had a
10 question to ask from.

11 MS. HARVIE: I understand that. I just
12 want to say there is a revision to 6.2.57. It need not
13 be filed. I'm just bringing it to the Board's
14 attention.

15 THE CHAIRMAN: I take it you have a
16 question with the letter anyway.

17 MR. MATTSON: Yes, Mr. Chairman.

18 Q. If you turn to page 3 of the letter,
19 actually 2 first, and it is a letter from the
20 Honourable -- or from Tom Campbell, Hydro chairman, at
21 the time to Rene Fontaine, in February of 1986. Mr.
22 Fontaine was the Minister of Northern Affairs.

23 I'd ask you to look at page 3 at the
24 bottom of the page, and he states that:

25 "Our experience in the North

1 indicates communities are generally
2 satisfied and frequently commend the
3 degree to which Hydro seeks out and
4 accounts for the public's views on major
5 projects."

6 Ms. Quinn, this panel has spent a fair
7 amount of time discussing the importance of community
8 consultation, co-planning, et cetera, and I'm not going
9 to review those questions, but just a number of
10 questions with respect to that.

11 First of all, would you still agree with
12 Mr. Campbell's assessment, in light of what you know
13 today, as opposed to what was known in 1986?

14 MS. QUINN: A. I think Mr. Campbell's
15 comments relate to public participation and
16 opportunities provided by Hydro, and I'm really looking
17 to the sentences in the same paragraph that you've
18 referred to, but just above where you pointed out.

19 I'm not really aware of major criticisms
20 of Ontario Hydro with regard to opportunities being
21 provided for public consultation. People may or may
22 not like the specific effects that may occur, but their
23 criticism hasn't, as I understand it, been at public
24 participation activities.

25 Q. If you look to page 11 and 12 of the

1 exhibit, or sorry, pages 9 to 11 of the exhibit, you'll
2 see Mr. Eliesen, chair of Ontario Hydro's comments to
3 the IPPSO conference. Now on the first page, the
4 fourth paragraph, he notes that:

5 "Generating electricity and
6 transmitting it across the province
7 affects our environment both natural and
8 social. We have to get community
9 agreement at both the local and
10 provincial level that what we propose is
11 both necessary and right. Unless we do,
12 we can't proceed. And frankly, that's
13 the way it should be."

14 And my question with respect to that, Ms.
15 Quinn, is yesterday in the evidence, in response to Ms.
16 Marlatt, she asked the First Nations -- several days
17 ago, if First Nations had the right to veto Ontario
18 Hydro developments in their area. You replied there is
19 just no policy on this point that can be applied beyond
20 one case. Is that correct? Do you recall that?

21 MS. QUINN: A. Yes. I'm sorry, I don't
22 have the transcript handy, but I had the impression
23 that that line of questioning had to do with what the
24 implications were of co-planning.

25 Q. All right.

1 A. I think whether or not it is
2 co-planning or public consultation, what our chairman
3 has said is that we would still seek to have local
4 agreement to the extent that's possible.

5 Q. So would you agree that -- I would
6 take it from this it looks as though it is a must that
7 they need community agreement. Would you agree that a
8 veto power to the community is appropriate?

9 A. Well, I can only speak with regard to
10 the particular exemption that is part of our evidence
11 at this point. I think I've mentioned that the
12 implication of our exclusion for the Moose River Basin
13 on co-planning suggests that that is what is possible
14 on the part of the First Nations.

15 But it is a goal in general that we
16 strive for, and we, outside of co-planning activities
17 and outside of the Moose River Basin, would certainly
18 do our best to provide some kind of proposal that
19 incorporates as much local concern as we can and to
20 accommodate as many of their interests and priorities
21 as we can.

22 Q. All right. If you look to page 12 of
23 the exhibit, it's interrogatory from Moose River/James
24 Bay Coalition, 6.26.28.

25 THE REGISTRAR: .137.

1 ---EXHIBIT NO. 367.137: Interrogatory No. 6.26.28.

2 MR. MATTSON: Q. And the final sentence
3 of the response to the question from Moose River was:

4 "Government approval of the
5 undertaking and associated mitigation
6 proposals would be the final test of
7 environmental acceptability."

8 My question is to anybody on the panel.
9 Would Mr. Eliesen's comments have modified that, and is
10 not the test public approval, according to your
11 chairman, the final test of acceptability?

12 MR. SNELSON: A. The speeches that are
13 delivered by senior officials of Ontario Hydro tend to
14 be very general in their nature, and I wouldn't have
15 read into Mr. Eliesen's words anything more than that
16 we needed approval of some process like this at the
17 provincial level to get some feeling that we have
18 acceptance at a provincial level, and then that we need
19 a subsequent site-specific approval through an
20 environmental assessment process that gives
21 opportunities for the local issues to be adequately
22 heard and discussed. So I wouldn't read anything more
23 than that into those particular words.

24 Q. All right. So you would stand by
25 your comments, the response in the interrogatory put to

1 you at page 12 of the exhibit?

2 A. Recognizing that government approval
3 only comes after all the necessary approval processes
4 have been taken, and that there are opportunities for
5 decisions to be challenged right up to the cabinet
6 before orders in council are given.

7 MR. MATTSON: Thank you, Mr. Chairman.
8 Those are all our questions.

9 THE CHAIRMAN: Thank you, Mr. Mattson.

10 Mr. Starkman, are you prepared to go now?

11 MR. STARKMAN: Mr. Chairman, I'm prepared
12 to go. I was hoping to receive from Ontario Hydro a
13 copy of the letter and memorandum they were referring
14 to earlier with respect to the availability of sites
15 for future hydroelectric development before I started,
16 and I talked to Ms. Harvie about it, and she was
17 looking into the matter.

18 MS. HARVIE: Oh, yes, that's right. I
19 am, Mr. Chairman. We spent some time over the break
20 looking through my files to see if I could find them,
21 as I am not permitted to communicate with the
22 witnesses. I'm not sure what to suggest at this stage.
23 I have them in hand.

24 THE CHAIRMAN: Your examination isn't
25 going to be very long, I understand, in any event, is

1 that right?

2 MR. STARKMAN: I'll be very brief, Mr.
3 Chairman.

4 THE CHAIRMAN: We'd like to stop sometime
5 between a quarter to and five o'clock. Would it be
6 better just -- I'm in your hands.

7 MR. STARKMAN: I think my preference
8 would be to leave it till Monday morning. I really
9 don't think I'm longer than a half an hour. So if I
10 could put it all at one time, that would be my
11 preference.

12 THE CHAIRMAN: All right. So you'd
13 rather start Monday morning, is that right?

14 MR. STARKMAN: That would be my
15 preference, yes.

16 THE CHAIRMAN: Ms. Mackesy, how long are
17 you going to be?

18 MRS. MACKESY: I expect to be about 15 to
19 20 minutes.

20 THE CHAIRMAN: Are you ready to go now?
21 I'm not going to force you. Are you ready?

22 MRS. MACKESY: I've had some discussions
23 on Panel 7 matters, and something which I thought it
24 might be appropriate for Panel 6, so I'd like to review
25 that before doing my cross-examination of Panel 6.

1 THE CHAIRMAN: Well, then I guess that
2 sounds like we start again on Monday morning at ten
3 o'clock.

4 We're all dedicated, I think, to the
5 proposition that we try and finish this panel during
6 next week. So we may have to make some time
7 adjustments in order to do that.

8 MS. HARVIE: I expect to be also doing a
9 brief redirect as well, Mr. Chairman. I certainly hope
10 there is an opportunity to squeeze that in next week.

11 THE CHAIRMAN: I'm not going to ask you
12 about that, because you don't know yet how long that
13 will be.

14 MS. HARVIE: No.

15 THE CHAIRMAN: We can now, I think,
16 safely adjourn until 9:00 o'clock on Monday, the 16th.

17 THE REGISTRAR: This hearing is adjourned
18 until Monday morning, the 16th of December, at nine
19 a.m.

20 ---Whereupon the hearing was adjourned at 4:28 to
21 be reconvened on Monday, December 16, 1991, at 9:00
22 a.m.

23
24
25 RT/BD [c. copyright 1985]



